FEDERAL REGISTER

VOLUME 12 NUMBER 199

Washington, Friday, October 10, 1947

TITLE 3—THE PRESIDENT

PROCLAMATION 2750

GENERAL PULASKI'S MEMORIAL DAY, 1947

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a noble deed remembered and cherished generation after generation by a whole people merits the reward of official public notice; and

WHEREAS the people of our Nation recall vividly and with thanks, among the selfless deeds of those who won our independence, the supreme contribution made by Count Casimir Pulaski, a fearless Polish patriot who gallantly fought for American liberty; and

WHEREAS October 11 is the anniversary of the day in 1779 when Count Pulaski, who held the rank of Brigadier General, laid down his life in that momentous cause, having two days earlier been wounded in a cavalry charge near Savannah, Georgia:

NOW THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, by this proclamation designate Saturday, October 11, 1947, as General Pulaski's Memorial Day; I invite the people of the United States to observe the day in civic ceremonies; and I direct the appropriate officials of the Government to have the American flag flown from all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 8th day of October in the year of our Lord nineteen hundred and [SEAL] forty-seven and of the independence of the United States of America the one hundred and seventy-second.

HARRY S. TRUMAN

By the President:

ROBERT A. LOVETT,
Acting Secretary of State.

[F. R. Doc. 47-9201; Filed, Oct. 9, 1947; 11:02 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter III—Farmers Home Administration, Department of Agriculture

Subchapter G—Farm Ownership

PART 364—REGULATIONS

FARM OWNERSHIP LOAN LIMITS; ALASKA

In the Territory of Alaska, for the purposes of Title I of the Bankhead-Jones Farm Tenant Act, as amended, average values of efficient family-type farm-management units and loan limits for the counties named herein are determined to be as herein set forth; and paragraph (b) of § 364.11, Part 364 of Title 6 of the Code of Federal Regulations, as amended November 14, 1946 (11 F. R. 13611) is amended by adding said Territory, counties, average values, and loan limits to the tabulations appearing in said paragraph:

ALASKA

County	Average value	Loan Limit
Anchorage	$20,000	$12,000
Fairbanks	20,000	12,000
Homer	12,000	12,000
Palmer	20,000	12,000

(Secs. 3 (a) 41 (f), 50 Stat. 523, 528, secs. 3, 5, 60 Stat. 1064, 1072; 7 U. S. C. 1003 (a), 1015 (f))

Issued this 6th day of October 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9123; Filed, Oct. 9, 1947; 8:46 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Production and Marketing Administration (Crop Insurance)

[Amdt. 4]

PART 414—WHEAT CROP INSURANCE REGULATIONS FOR INSURANCE CONTRACTS COVERING THE 1945, 1946 AND 1947 CROP YEARS

EXTENSION OF CONTRACTS FOR ONE YEAR

The Wheat Crop Insurance Regulations for Insurance Contracts Covering

(Continued on p. 6679)

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THE PRESIDENT

EXECUTIVE AGENCIES

FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such in parentheses.

CODIFICATION GUIDE—Con.

the 1945, 1946, and 1947 Crop Years (10 F. R. 1585, 1851, 10343, 11 F. R. 5529) are hereby amended by adding the following new section:

§ 414.46 *Extension of contracts for one year.* In counties where both winter and spring wheat are grown, contracts in effect for the 1947 crop year under these regulations may be extended or renewed to include the 1948 crop year on the basis of 50 percent of the average yield (which was or could have been established on the 1945 wheat crop insurance listing sheet) and the premium rate applicable to the above-mentioned contracts, provided the insured files with the State Director written notice of his election to do so within 15 days after notice of the opportunity to so extend his contract is mailed to him. (Sec. 508, 52 Stat. 74, as amended; 7 U. S. C. and Sup., 1508)

Adopted by the Board of Directors on October 1, 1947.

[SEAL] E. D. BERKAW,
Secretary,
Federal Crop Insurance Corporation.

Approved: October 6, 1947.

CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9124; Filed, Oct. 9, 1947; 8:46 a. m.]

Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

PART 701—AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUBPART—1948

Sec.
701.901 Distribution and control of funds.
701.902 Basis for approval of practices, adaptation of practices and rates of payment, local and special practices, pooling agreements, and State and Federal aid.
701.903 Conservation practices and maximum payment rates.
701.904. Division of payments.
701.905 Increase in small payments.
701.906. Payments limited to $500.
701.907 Conservation materials and services.
701.908 General provisions relating to payments.
701.909 Application for payment.
701.910 Appeals.
701.911 State handbooks, bulletins, instructions, and forms.
701.912 Definitions.
701.913 Authority, availability of funds, and applicability.

AUTHORITY: §§ 701.901 to 701.913, inclusive, issued under secs. 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, 49 Stat. 1148, 50 Stat. 663, Public Laws 249, 266, 80th Congress; 16 U. S. C. and Sup. 590g-590q.

Payments will be made for participation in the 1948 Agricultural Conservation Program (hereinafter referred to as the 1948 program) in accordance with the provisions of this bulletin and such modifications thereof as may hereafter be made. The provisions of this program as contained herein are applicable to the Continental United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

§ 701.901 *Distribution and control of funds*—(a) *State funds.* Funds available for conservation practices will be distributed among States on the basis of their conservation needs, but the proportion allocated to any State shall not be reduced more than 15 percent from its proportionate 1946 distribution.

(b) *Control of funds*—(1) *Continental United States.* The State committee will allocate the funds available for conservation practices among the counties within the State. The county committee, in accordance with the method approved by the State committee, will determine the amount of assistance to be made available to each farm, taking into consideration the county allocation and the conservation needs of the county and of the individual farms.

(2) *Insular Area (Alaska, Hawaii, Puerto Rico, and Virgin Islands).* Farm allowances shall be established in each area for the purpose of limiting payments to available funds. Farm allowances shall be based upon formulae which will provide for the equitable distribution of funds on the basis of individual farm conservation needs.

(c) *Adjustments.* If the total estimated earnings under the program exceed the total funds available for payment, payments will be reduced equitably in States where the estimated earnings exceed the amount available for use in the State.

§ 701.902 *Basis for approval of practices, adaptation of practices and rates of payment, local and special practices, pooling agreements, and State and Federal aid*—(a) *Basis for approval of practices.* Practices to be approved will include only those which maintain or increase soil fertility, control and prevent soil erosion caused by wind or water; encourage conservation and better agricultural use of water; or conserve and increase range and pasture forage. The practices to be approved for any State or area will be those best adapted to achieve sound soil and water conservation and use which will not be carried out in desired volume on the basis of relative conservation needs unless payments are made therefor. Except for the practices provided for in paragraphs (c) and (d) of this section, the conservation practices for which payment will be made in any State or area, and the rates of payment for such practices, will be those recommended by the State committee and approved by the Agricultural Conservation Programs Branch, Production and Marketing Administration (hereinafter referred to as the ACP Branch) The practices approved for use in any State or area, and the rates of payment for such practices, will be within the limitations specified in § 701.903.

(b) *Adaptation of practices and rates of payment.* In order to encourage the performance of practices which are needed most on all farms or on groups of farms in a county, the county committee, with the approval of the State committee, may designate from the practices approved for the State or area those practices which will be applicable on all farms or designated groups of farms in the county, and may approve rates of payment lower than the rates of payment approved for general use in the State or area.

(c) *Local practice.* Where a local conservation problem exists for which an appropriate practice is not included in the practices in § 701.903, the county committee may recommend, and the State committee and technical committee with the concurrence of the ACP Branch may approve, one such practice, other than a practice of seeding grasses or legumes, for payment in the county.

(d) *Special practice.* To permit further local adaptation of practices, the county committee may recommend, and the State committee may approve, one practice for the county from the practices included in § 701.903 which is not included in the list of practices approved for the State.

(e) *Pooling agreements.* Producers in any local area may agree in writing, with approval of the county and State committees, to perform designated amounts of practices which the State committee determines are necessary to conserve or improve the agricultural resources of the community. For purposes of payments, practices carried out under such an approved written agreement will be regarded as having been carried out on the farms of the producers who performed the practices.

(f) *Practices carried out with State or Federal aid.* The extent of any practice shall not be reduced because it is carried out with materials or services furnished by the ACP Branch or by any agency of a State to another agency of the same State. In other cases of State or Federal aid, the total extent of any practice performed shall be reduced for purposes of payment by the percentage of the total cost of the practice which the county committee determines was furnished by a State or Federal agency.

§ 701.903 *Conservation practices and maximum payment rates.* Paragraphs

(a) to (h) inclusive, of this section, contain a general description of the conservation practices of the 1948 program and the maximum payment rates for the practices. Information with respect to the several practices for which payment will be made when carried out on a particular farm and the exact specifications and payment rates for such practices may be obtained from the county committee for the county in which the farm is located, or from the State committee (11 F R. 177A-285)

(a) *Liming materials, fertilizers, and minor elements*—(1) *Application of liming materials.*

Payment rates. (i) 60 percent of the average cost of bulk ground limestone containing at least 80 percent calcium carbonate equivalent on a delivered-to-the-farm basis.

(ii) The rate for other liming materials may not exceed the lower of:

(*a*) The rate for an equivalent amount of bulk ground limestone containing at least 80 percent calcium carbonate equivalent.

(*b*) 60 percent of the average cost of the equivalent material delivered to the farm.

(2) *Application of potash, superphosphate, or basic slag.* Applicable only in connection with the following crops and uses: Rotation and permanent pastures, excluding small grain; new seedings of grasses or legumes, excluding small grain, vegetable and truck crops for sale, soybeans or mung beans for oil or seed, and all peanuts, but including 1947 fall seedings of small grain which are overseeded with a grass or legume in the spring of 1948; winter cover crops, excluding small grain seeded alone; hay crops, excluding small grain, Sudan grass, and sorghums; green manure or cover crops in orchards or vineyards; summer legumes grown for cover, for hay, or for seed for planting; permanent sod waterways; phosphate only when mixed with manure in stables or on dropping boards and applied to any crop, except that the phosphate content of mixed fertilizers will not qualify and shade trees in coffee or vanilla groves. Payment rates must be established for each of the following materials where payment for the material will be included in the State handbook: Normal superphosphate containing 20 percent or less phosphoric acid; concentrated superphosphate containing more than 20 percent phosphoric acid; potash; basic slag; and mixed fertilizers for which the rates will be determined on the basis of the rates established for normal superphosphate and potash.

Payment rates. The lower of:

(i) 60 percent of the average cost of the straight material at siding, dealer's warehouse, or plant.

(ii) The rate contained in the 1947 State handbook for the applicable material.

(3) *Application of rock phosphate or colloidal phosphate to any land.*

Payment rates. (i) 50 percent of the average cost of the material at siding for rock phosphate of at least 28 percent phosphoric content.

(ii) For colloidal phosphate or lower grade rock phosphate, the rate may not exceed the lower of:

(*a*) The rate for an equivalent amount of 28 percent rock phosphate.

(*b*) 50 percent of the average cost at siding for the lower grade material.

(4) *Application of minor elements.* Materials used as insecticides are not eligible.

Payment rate. 65 percent of the average cost of the material at siding, dealer's warehouse, or plant.

(b) *Green manure and cover crop practices.* A good stand and a good growth must be obtained and left on the land or turned under. However, limited grazing will be permitted.

(1) *Winter annual legumes for green manure or cover.* Volunteer stands are not eligible.

Payment rate. 70 percent of the average cost of the seed.

(2) *Summer annual legumes for green manure or cover* Volunteer stands, vegetable and truck crops for sale, soybeans or mung beans for seed or oil, all peanuts, and interplanted seedings with row crops, are not eligible.

Payment rate. 70 percent of the average cost of the seed.

(3) *Adapted nonlegumes for green manure or cover* Small grains, volunteer stands, and any acreage harvested for seed or hay, are not eligible.

Payment rate. 70 percent of the average cost of the seed.

(4) *Ryegrass on cropland or in orchards for green manure or cover* Volunteer stands are not eligible.

Payment rate. 70 percent of the average cost of the seed.

(5) *Rye or wheat for green manure or cover* Volunteer stands or acreages harvested for hay or grain are not eligible.

Payment rate. $2.50 per acre.

(6) *Oats, millet, barley, or buckwheat for green manure or cover* Volunteer stands or acreages harvested for hay or grain are not eligible.

Payment rate. $1.50 per acre.

(7) *Red clover alsike clover or sweetclover used for green manure only.*

Payment rate. $1.50 per acre.

(8) *Perennial cover of adapted legumes and grasses in orchards and vineyards.* Volunteer stands and any acreage cut for hay are not eligible. The approved seeds must be designated.

Payment rate. 70 percent of the average cost of the seed.

(c) *Erosion control and water conservation practices*—(1) *Construction of terraces.* Proper outlets must be provided.

Payment rate. 70 percent of the average cost of construction of the terrace.

(2) *Contour farming intertilled crops.* The crop stubble or crop residue must be left standing over winter, or a winter cover crop established, or protective tillage operations carried out.

Payment rates. (i) $1.50 per acre where all cultural operations are on the contour.

(ii) $1.00 per acre where only the planting and cultivating are on the contour.

(3) *Contour farming drilled or close-sown grasses, legumes, or small grains.*

Payment rates. (i) $0.75 per acre where all cultural operations are on the contour.

(ii) $0.50 per acre where only the seeding operation is on the contour.

(4) *Establishing contour strip cropping.* The maximum and minimum width of the strips must be specified, and the types of eligible protected and protective crops and uses must be designated. No payment may be made for this practice on any acreage for which payment is made under subparagraph (2) or (3) of this paragraph.

Payment rate. $4.00 per acre.

(5) *Cross-slope farming row crops.* Contour lines must be established and all cultural operations performed as nearly as possible on the contour. Applicable only in areas where contouring is impracticable.

Payment rate. $1.00 per acre.

(6) *Cross-slope farming drilled or close-sown crops.* Contour lines must be established and all cultural operations performed as nearly as possible on the contour. Applicable only in areas where contouring is impracticable.

Payment rate. $0.35 per acre.

(7) *Establishing cross-slope strip cropping.* Contour lines must be established and all cultural operations performed as nearly as possible on the contour. Applicable only in areas where contour strip cropping is impracticable. No payment will be made for this practice on any acreage in a contour stripping or cross-slope stripping system for which a payment for establishment or maintenace has been made under previous programs. No payment may be made for this practice on any acreage for which payment is made under subparagraph (5) or (6) of this paragraph.

Payment rate. $3.00 per acre.

(8) *Planting orchards and vineyards on the contour*

Payment rate. $7.50 per acre.

(9) *Field strip cropping.* The maximum and minimum widths of the strips must be designated, and the types of eligible protected and protective crops and uses must be designated. No payment will be made for this practice on any acreage in a contour stripping or cross-slope stripping system for which a payment for establishment or maintenance has been made under previous programs.

Payment rates. (i) $0.50 per acre for systems with strips in excess of 10 rods in width.

(ii) $0.75 per acre for systems with strips not in excess of 10 rods in width.

(iii) $0.75 per acre for systems using sawfly strips.

(10) *Furrowing, chiseling, ripping, scarifying, or listing noncrop pasture.* The operations must be on the contour.

Payment rate. $0.25 per 1,000 linear feet.

(11) *Subsoiling.* The subsoiling must be to a depth which will effectively shatter the hardpan or plow sole.

Payment rates. (i) $2.25 per acre for intervals up to 4 feet.

(ii) $1.50 per acre for intervals over 4 feet but not over 7 feet.

(12) *Rotary subsoiling.*

Payment rate. $0.25 per acre.

(13) *Deep plowing on sandy cropland to prevent wind erosion.* The heavier subsoil must be brought to the surface. Applicable only in wind erosion areas designated by the State committee and included in the State handbook. No payment will be made on any acreage for which payment was made for this practice under any previous program.

Payment rate. $1.50 per acre.

(14) *Crop residue management.* Performing tillage operations which will partially incorporate a heavy growth of stubble or straw into the surface soil to prevent erosion. No payment will be made if the acreage has been burned or the straw removed.

Payment rates. (i) $1.00 per acre when used to protect summer-fallowed land.
(ii) $0.60 per acre on other cropland.

(15) *Contour listing, contour chiseling, basin listing, pit cultivation, or emergency listing at right angles to prevailing winds.* No payment will be made where these operations are carried out as part of a seeding operation.

Payment rates. (i) $0.60 per acre when used to protect summer-fallowed land.
(ii) $0.30 per acre on other cropland.

(16) *Establishing permanent sod waterways.* Applicable only to waterways established in 1948, unless the county committee determines that an old waterway needs reshaping, reseeding, or resodding. Payment for waterways established by lifting farm implements when breaking out sod or hay land is limited to the first year on the field.

Payment rates. (i) $0.75 per 1,000 square feet for waterways established by shaping, seeding, or sodding.
(ii) $0.25 per 1,000 square feet for waterways established by lifting farm implements when breaking out sod or hay land.
(iii) $0.08 per cubic yard of material moved with dirt-moving equipment in reshaping and filling. Applicable only if payment is earned under subparagraph (16) (i) or (21) of this paragraph.

(17) *Construction of spreader ditches, spreader terraces, or dikes for collecting or spreading water*

Payment rate. $0.08 per cubic yard of material moved.

(18) *Construction of diversion terraces or diversion ditches for diverting or collecting water to control erosion or for impoundment purposes.*

Payment rate. $0.08 per cubic yard of material moved.

(19) *Construction of riprap of a permanent nature.* Applicable only along stream banks, in gullies, on the face of dams, or in water courses, for the purpose of controlling erosion. The types of materials to be used must be specified in the State handbook.

Payment rates. (i) $0.50 per square yard of exposed riprap surface, or
(ii) $1.50 per cubic yard of riprap material.

(20) *Mulching to control wind erosion or in connection with tree planting on blow land.* Only straw, hay, or cotton burs may be used. The type of material must be specified in the State handbook and cannot include manure.

Payment rate. $1.00 per ton of material used.

(21) *Establishing a permanent cover.* Applicable only on steep slopes or in waterways where necessary to prevent erosion. Only the following crops are eligible: Perennial lespedeza, kudzu, adapted perennial grasses seeded alone, or adapted perennial grasses seeded in a mixture with legumes. No payment will be made for this practice on any acreage for which payment is made under subparagraph (16) (i) of this paragraph.

Payment rate. 50 percent of the average cost of the seed or crowns.

(22) *Construction of flumes or chutes in gullies or ditches to control erosion.* The types of materials to be used must be designated in the State handbook.

Payment rate. 50 percent of the average cost of the material used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.

(23) *Mechanical protection of outlet channels.*

Payment rates. (i) 50 percent of the cost of concrete or rubble masonry used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.
(ii) $0.50 per square yard of exposed surface on log dams.
(iii) $0.50 per square yard of exposed surface of wire-bound mulch.
(iv) $0.15 per square yard of exposed surface on wire dams.

(24) *Leaving stalks of sorghum, Sudan grass, millet, or broomcorn as a protection against wind erosion.* The stalks must be left on the land until spring farming operations are begun. No grazing is permitted. The stalk on broadcast crops must be left at least 8 inches high and at least 10 inches high on drilled or row crops. Applicable only in wind erosion areas approved by the State committee and included in the State handbook.

Payment rate. $0.35 per acre.

(25) *Dams for erosion control.*

Payment rates. (i) $0.03 per cubic yard of material moved in the construction of the dam, wings, and walls.
(ii) 50 percent of the average cost of concrete or rubble masonry used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.
(iii) 50 percent of the average cost of pipe delivered to the farm.

(26) *Construction of rock or rock and brush dams for erosion control.*

Payment rate. $1.00 per cubic yard of rock used.

(d) *Irrigation and drainage practices—(1) Reorganization of a farm irrigation system.* The reorganization must be completed in accordance with a written plan approved by the county committee and must control erosion or conserve water. No payment will be made for cleaning a ditch, or for repairs or replacements of existing structures under subdivision (iii) or (iv) of this subparagraph, or for the installation of laterals under subdivision (iv) of this subparagraph.

Payment rates. (i) $0.03 per cubic yard of material moved in the construction or enlargement of permanent ditches, dikes, or laterals.
(ii) 50 percent of the average cost of the material used in lining ditches or reservoirs, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.
(iii) 50 percent of the average cost of the material used in constructing or installing siphons, flumes, drop boxes or chutes, weirs, diversion gates, and pipe, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.
(iv) 50 percent of the average cost of pipe used in the installation of main lines and standpipes for overhead irrigation.

(2) *Leveling land for irrigation.* The operation must conserve water or prevent erosion. No payment will be made for floating or for carrying out this practice on any land for which a payment for leveling has been made under a previous program. Not applicable in connection with any land for which water is not available.

Payment rate. $0.03 per cubic yard of material moved.

(3) *Construction or enlargement of dams for irrigation water.* No payment will be made for material moved in cleaning a dam.

Payment rates. (i) $0.03 per cubic yard of earth or other material moved.
(ii) 50 percent of the cost of concrete or rubble masonry used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.

(4) *Construction or enlargement of open farm drainage ditches.* No payment will be made for material moved in cleaning a ditch.

Payment rate. $0.03 per cubic yard of material moved.

(5) *Installation of tile, fibre pipe, or lumber box drains.*

Payment rate. 50 percent of the average cost of the material delivered to the farm, except that payment for tile and fibre pipe in excess of 8 inches in diameter, and for lumber box drains having a cross section in excess of 50 square inches, shall not exceed the payment which may be made for 8-inch tile or fibre pipe or for 50-square inch lumber box drains.

(e) *Range and pasture practices.* Payment will not be made for any of the following range or pasture practices where the county committee determines that the grazing land in the unit has been overgrazed.

(1) *Grazing land management by the maintenance of forage residue throughout the program year by the proper utilization of forage on all grazing land in the unit, as determined by approved standard procedure.*

Payment rates. The smaller of:
(i) The amount approved by the county committee, or
(ii) $50.00 plus $0.04 per acre of grazing land, or
(iii) $0.75 per acre of grazing land.

(2) *Construction of wells for livestock water.* The development must contribute to a better distribution of grazing, and adequate storage facilities must be provided. Pumping equipment must be installed, except in connection with artesian wells. No payment will be made for wells constructed at or for the use of headquarters.

Payment rates. (i) $1.00 per linear foot of well with a bore taking a casing less than 4 inches in diameter, and artesian wells.
(ii) $2.00 per linear foot of well with a bore taking a casing of 4 inches but less than 6 inches in diameter, excluding artesian wells.
(iii) $3.00 per linear foot of well with a bore taking a casing of 6 inches or more in diameter, excluding artesian wells.

(3) *Development of springs and seeps.* The project must contribute to a better distribution of grazing.

Payment rates. (i) $0.50 per cubic yard of excavation in rock, and
(ii) $0.30 per cubic foot of excavation in soil or gravel, or
(iii) $0.50 per cubic foot of storage capacity constructed.

(4) *Construction of dams, pits, ponds, or reservoirs, for livestock water, including the enlargement of inadequate structures.* The development must contribute to a better distribution of grazing or better pasture management.

Payment rates. (i) $0.08 per cubic yard of material moved.
(ii) 50 percent of the average cost of concrete or rubble masonry used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.
(iii) 50 percent of the average cost of fencing materials, pipe, and seeding or sodding the dam and filter strips.

(5) *Installation of pipe lines for livestock water* The project must contribute to a better distribution of grazing.

Payment rate. 50 percent of the average cost of pipe, except that the payment for pipe in excess of 2 inches in diameter may not exceed the payment which may be made for 2-inch pipe.

(6) *Deferred grazing.* Payment will not be made on more than 25 percent of the grazing land in the unit, or on any part of the deferred area which is cut for hay.

Payment rates. (i) $0.12 per acre deferred, except that where the carrying capacity is less than one animal unit for each 30 acres, the rate must be reduced proportionately and set forth in the State handbook. Applicable only in the continental United States.
(ii) $0.04 per acre per month for the acreage deferred. Applicable only in the Insular Area.

(7) *Construction of new large water storage at wells and springs for livestock water* The project must contribute to a better distribution of grazing.

Payment rate. 50 percent of the cost of the material used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.

(8) *Lining earthen reservoirs for livestock water*

Payment rate. 50 percent of the cost of approved material used, but not in excess of $10.00 per cubic yard of concrete or $6.00 per cubic yard of rubble masonry.

(9) *Construction of stock trails through natural barriers.* Applicable only where the project will permit a better distribution of grazing.

Payment rate. 50 percent of the average cost of construction.

(10) *Establishing or improving permanent pasture by seeding, sodding, or sprigging adapted grasses, legumes, and other adapted pasture forage plants.* Where payment rates are determined on an acre basis, the recommended seeding rates, kinds of seeds, and proportion of seed in mixtures must be set forth in the State handbook.

Payment rate. 80 percent of the average cost of the seed, sod, or sprigs.

(11) *Construction or maintenance of fireguards to protect grazing land.* The fireguards must have a minimum width of 10 feet.

Payment rate. $1.20 per 1,000 linear feet.

(12) *Elimination of competitive plants and shrubs on noncrop pasture and range land.* Eligible plants and shrubs must be designated in the State handbook.

Payment rate. $5.00 per acre.

(13) *Mowing weeds in pastures.* The mowings may not be used for hay nor sold for any purpose.

Payment rate. $0.50 per acre per year.

(14) *Construction of permanent fences.* The project must permit a better distribution of grazing on range or pasture land, or protect farm woodlots from grazing. No payment may be made for the maintenance of existing fences.

Payment rate. 50 percent of the average cost of posts, wire, poles, lumber, or other similar fencing materials.

(15) *Management of small pastures to obtain better cover* The methods of management must be included in the State handbook.

Payment rates. (i) $1.00 per acre for seeded supplemental pasture.
(ii) $0.50 per acre for mountain meadow or hay land used for supplemental pasture.

(f) *Forestry practices*—(1) *Construction of firebreaks or fire lanes.*

Payment rates. (i) $0.50 per 1,000 linear feet for each foot of width for widths not in excess of 15 feet, and
(ii) $0.40 per 1,000 linear feet for each foot of width in excess of 15 feet, but not in excess of 25 feet.

(2) *Planting forest trees or shrubs.* Applicable only in windbreaks, for gully control, for erosion control along stream banks, or for forestry purposes. The plantings must be protected from fire and grazing. No payment will be made for planting white pine, unless all currant and gooseberry bushes are removed from the planted area and throughout a protective border.

Payment rates. The larger of:
(i) $1.00 per 100 trees or shrubs, or
(ii) $7.50 per acre.

(3) *Maintaining a stand of trees and shrubs in windbreaks.* Applicable only in connection with windbreaks planted since January 1, 1943, and prior to January 1, 1948. Replanting is required to bring the stand up to normal. The windbreaks must be protected from fire and grazing. No payment will be made for maintaining a stand of white pine, unless all currant and gooseberry bushes are removed from the planted area and throughout a protective border.

Payment rate. $3.00 per acre.

(4) *Improving a stand of forest trees.* Technical assistance must be utilized. The minimum stand of desirable species which must be present in order for the acreage to be eligible must be set forth in the State handbook. No payment will be made for improving a stand containing white pine, unless all currant and gooseberry bushes are removed from the planted area and throughout a protective border.

Payment rate. $5.00 per acre.

(g) *Miscellaneous practices* — (1) *Clearing land.* Applicable only where clearing is necessary for the conservation or better use of other land in the farm. No payment will be made for clearing a stand of merchantable timber or pulpwood.

Payment rate. 50 percent of the cost of the clearing operation, but not in excess of $10.00 per acre cleared.

(2) *Removal of stone walls and hedgerows.* Applicable only where the removal will permit contouring, terracing, or strip cropping on the field, and such practices are carried out in 1948.

Payment rate. 50 percent of the cost of removal, but not in excess of $5.00 per square rod of stone wall or hedgerow removed.

(3) *Control of perennial noxious weeds designated by the State committee.* Applicable only on farms where the county committee determines there is no likelihood of reinfestation from adjacent farms or contiguous land. No crop may be taken from the land where clean cultivation is used.

Payment rates. (i) $7.50 per acre for continuous clean cultivation, except for Johnson grass and quackgrass.
(ii) $5.00 per acre for continuous clean cultivation of Johnson grass or quackgrass.
(iii) $0.02 per pound of agricultural mesh borax.
(iv) $0.018 per pound of borax, special undried concentrates.
(v) 50 percent of the average cost of other State committee approved chemicals, excluding oil.

(4) *Filling pot holes on cropland to permit better land use.*

Payment rate. $0.05 per cubic yard of material used.

(5) *Sanding cranberry bogs.*

Payment rate. $5.00 per acre.

(6) *Application of mulching materials designated by the State committee.* Applicable only to vegetable or potato land, strawberries or other small fruit, or orchards and vineyards.

Payment rate. 60 percent of the cost of the material delivered to the farm, but not in excess of $5.00 per ton, air-dry weight.

(7) *Local conservation practice.* The county committee may select, with the prior approval of the State committee and technical committee and the concurrence of the ACP Branch, one practice of a local nature not included in this section which has a definite soil or water conservation value or which will maintain or increase soil fertility or conserve and increase range and pasture forage and will meet special needs in the county. The seeding of grasses or legumes will not be approved as a local conservation

practice. The practice selected under this authority must be carried out under specifications approved by the State committee. The State committee shall determine the amount of funds which may be expended on this practice in any county.

Payment rate. The rate recommended by the county committee and approved by the State committee with the concurrence of the ACP Branch, except that the rate should not exceed that percentage of the cost specified as the maximum for a practice of a similar type included in this section.

(8) *Special conservation practice.* With the approval of the State committee, the county committee may select for use in the county one practice included in this section for which there is a need locally, but which is not selected for use in the State.

Payment rate. The rate recommended by the county committee and approved by the State committee, except that the rate may not be in excess of the maximum rate for the practice set forth in this section.

(h) *Practices applicable only in the Insular Area—(1) Construction of permanent artificial watersheds for accumulating livestock water.*

Payment rate. 50 percent of the cost of material used.

(2) *Application of coffee pulp to coffee trees.*

Payment rate. $1.00 per ton.

(3) *Planting trees in established coffee groves to control erosion.*

Payment rate. $0.05 per tree.

(4) *Construction of stone barriers for the diversion and spreading of surface run-off.*

Payment rate. 80 percent of the cost of construction.

(5) *Planting vegetative barriers to impede the flow of surface run-off.*

Payment rate. $0.25 per 1,000 linear feet.

(i) *Method of expressing payment rates.* All payment rates in State and county handbooks must be expressed in dollars and cents, except that the rates for the practices contained in the following paragraphs may be expressed as a percentage of the cost: (c) (19) (22) (23) (i) (25) (ii) (iii), (d) (1) (i) (ii) (iii) (iv) (3) (ii) (5) (e) (4) (iii) (5) (7), (8) (9) (12) (14) (g) (1) (3) (v), (h) (1) (4) of this section.

(j) *Prior approval.* Prior approval must be given before the practice is performed and shall include, where applicable, location, type of material, species, types and kinds of seed, planting or seeding dates, designated types or methods of construction, and other similar information which will insure proper performance of the practice. Prior approval of the county committee is required for the practices contained in the following paragraphs: (c) (1) (16) (17) (18) (19) (21), (22) (23) (25) (26), (d) (1) (2) (3) (4) (e) (1) (2) (3) (4) (5), (6) (7) (9) (12) (14) (15), (f) (1) (2) (3) (4), (g) (1) (2) (3), (h) (1), (3) (4) (5) of this section.

§ 701.904 *Division of payments*—(a) *Conservation practice payments.* The payment earned in carrying out practices with conservation materials or services shall be credited to the producer to whom the materials or services are furnished. Payment for practices performed with conservation materials and services shall have priority over payment for other practices. The payment earned in carrying out other practices shall be paid to the producer who carried out the practices. If more than one producer contributed to the carrying-out of such practices, the payment shall be divided in the proportion that the county committee determines the producers contributed to the carrying-out of the practices. In making this determination, the county committee shall take into consideration the value of the labor, equipment, or material contributed by each producer toward the carrying-out of each practice on a particular acreage, assuming that each contributed equally, unless it is established to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion. The furnishing of land will not be considered as a contribution to the carrying-out of any practice.

(b) *Death, incompetency, or disappearance of producer* In case of death, incompetency, or disappearance of any producer, his share of the payment shall be paid to his successor, determined in accordance with the provisions of the regulations in ACP–122, as amended. (5 F. R. 2875, 6 F. R. 1647, 4430, 9 F. R. 12237)

§ 701.905 *Increase in small payments.* The payment computed for any person with respect to any farm shall be increased as follows:

(a) Any payment amounting to $0.71 or less shall be increased to $1.00.

(b) Any payment amounting to more than $0.71, but less than $1.00, shall be increased by 40 percent.

(c) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed:	*Increase in payment*
$1.00 to $1.99	$0.40
$2.00 to $2.99	.60
$3.00 to $3.99	1.20
$4.00 to $4.99	1.60
$5.00 to $5.99	2.00
$6.00 to $6.99	2.40
$7.00 to $7.99	2.80
$8.00 to $8.99	3.20
$9.00 to $9.99	3.60
$10.00 to $10.99	4.00
$11.00 to $11.99	4.40
$12.00 to $12.99	4.80
$13.00 to $13.99	5.20
$14.00 to $14.99	5.60
$15.00 to $15.99	6.00
$16.00 to $16.99	6.40
$17.00 to $17.99	6.80
$18.00 to $18.99	7.20
$19.00 to $19.99	7.60
$20.00 to $20.99	8.00
$21.00 to $21.99	8.20
$22.00 to $22.99	8.40
$23.00 to $23.99	8.60
$24.00 to $24.99	8.80
$25.00 to $25.99	9.00
$26.00 to $26.99	9.20
$27.00 to $27.99	9.40
$28.00 to $28.99	9.60
$29.00 to $29.99	9.80
$30.00 to $30.99	10.00
$31.00 to $31.99	$10.20
$32.00 to $32.99	10.40
$33.00 to $33.99	10.60
$34.00 to $34.99	10.80
$35.00 to $35.99	11.00
$36.00 to $36.99	11.20
$37.00 to $37.99	11.40
$38.00 to $38.99	11.60
$39.00 to $39.99	11.80
$40.00 to $40.99	12.00
$41.00 to $41.99	12.10
$42.00 to $42.99	12.20
$43.00 to $43.99	12.30
$44.00 to $44.99	12.40
$45.00 to $45.99	12.50
$46.00 to $46.99	12.60
$47.00 to $47.99	12.70
$48.00 to $48.99	12.80
$49.00 to $49.99	12.90
$50.00 to $50.99	13.00
$51.00 to $51.99	13.10
$52.00 to $52.99	13.20
$53.00 to $53.99	13.30
$54.00 to $54.99	13.40
$55.00 to $55.99	13.50
$56.00 to $56.99	13.60
$57.00 to $57.99	13.70
$58.00 to $58.99	13.80
$59.00 to $59.99	13.90
$60.00 to $185.99	14.00
$186.00 to $199.99	(1)
$200.00 and over	(2)

[1] Increase to $200.
[2] No increase.

§ 701.906 *Payments limited to $500.* The total of all payments made in connection with the 1948 program to any person with respect to farms, ranching units and turpentine places in the United States (including Alaska, Hawaii, Puerto Rico, and the Virgin Islands) shall not exceed the sum of $500.

All or any part of any payment which has been or otherwise would be made to any person under the 1948 program may be withheld or required to be refunded if he has adopted or participated in adopting any scheme or device designd to evade, or which has the effect of evading, the provisions of this section.

§ 701.907 *Conservation materials and services*—(a) *Availability.* Liming materials, phosphates, seeds, and other farming materials or services may be furnished by the ACP Branch to producers for carrying out approved practices. Materials or services may not be furnished to producers who are on the Register of Indebtedness, except in those cases where the agency to which the debt is owed notifies the ACP Branch that it temporarily waives its rights for set-off in order to permit the furnishing of materials and services.

Title to any material distributed by the ACP Branch, either directly or through purchase orders, shall vest in the ACP Branch until the material is applied or planted, or all charges for the material are satisfied.

(b) *Cost to producer in cash.* The producer shall pay that part of the cost of the material or service established by the ACP Branch which is in excess of the credit for the use of the material or service in carrying out approved practices. The small payment increase on an amount equivalent to the credit value of properly used conservation materials and services may be advanced as a credit against that part of the cost required to be paid by the producer.

(c) *Deduction.* A deduction shall be made for materials or services furnished by the ACP Branch from the payment of the producer to whom the materials or services are furnished. The deduction shall be the sum of the credit value of the conservation materials and services furnished and any amount of small payment increase advanced to the producer, except that (1) where the cost to the ACP Branch is less than the credit rate, the deduction shall be equal to the cost; (2) where the increase in small payment was advanced to the producer under a previous program and the material or service was transferred to the 1948 program, the amount of the increase in small payment to be deducted shall be determined on the 1948 credit value; and (3) where the material or service was transferred to the 1948 program from a previous program and the practice for which furnished is not offered in the county under the 1948 program, the producer may be relieved of the above deductions upon determination by the county committee that the material or service was used in performing the practice for which the material or service was furnished. If the producer misuses any material or service furnished, an additional deduction equal to the original amount of the deduction, excluding any amount of small payment increase advanced to the producer, for the material or service misused shall be made.

Materials or services will be considered as misused, for the purpose of this section, in the following instances:

(1) Where the county committee determines that any conservation material has been applied to crops which are not designated as eligible crops by the county and State committees, unless failure to properly use the material was due to conditions beyond the producer's control.

(2) Where the county committee determines that a structure, such as a terrace or dam, has been willfully or negligently destroyed by a producer in the program year in which the structure was completed.

(3) Where the county committee determines that material has been willfully or negligently destroyed, or has been rendered unusable, by the producer.

(4) Where the county committee determines that, with respect to seed furnished in connection with a green manure or cover crop, the crop is harvested for grain or hay, or is too heavily grazed.

(5) Where the county committee determines that a producer has disposed of material by sale, barter, or some other unauthorized means.

(6) Where the county committee is unable to determine the use or disposition of material because of the failure of a producer to furnish requested information by the closing date designated by the ACP Branch for filing performance reports. However, if the requested information is filed at a later date and the material was properly used, the material will not be considered as misused.

If the deduction for the materials or services exceeds the payment for the producer to whom the materials or services are furnished, the amount of the difference shall be paid by the producer to the Treasurer of the United States.

Any producer to whom materials are furnished shall be responsible to the ACP Branch for any damage to the materials, unless he shows that the damage was caused by circumstances beyond his control. If materials are abandoned or not used during the program year, they may, at the option of the ACP Branch, be transferred to another producer or otherwise disposed of by the ACP Branch at the expense of the producer who abandoned or failed to use the material, or retained by the producer for use in a subsequent program year.

§ 701.908 *General provisions relating to payments*—(a) *Breaking out permanent vegetative cover* In any area designated by the ACP Branch as an area subject to serious wind erosion, a deduction of $3.00 shall be made for each acre of native sod or any other permanent vegetative cover broken out during the 1948 program year without the approval of the county committee, if the county committee finds, in accordance with standards approved by the State committee, that the land broken out is not suited to the continuing production of cultivated crops and will become a wind erosion hazard to the community. The deduction shall be made from the payment of the person responsible for breaking out the land after the payment has been increased in accordance with the provisions of § 701.905.

(b) *Failure to maintain practices under previous programs.* If the county committee determines that any conservation practice carried out under previous agricultural conservation programs is not maintained in accordance with good farming practices, or the effectiveness of any such practice is destroyed during the 1948 program year, a deduction shall be made for the extent of the practice destroyed or not maintained. The deduction rate shall be the 1948 practice rate or, if the practice is not offered in 1948, the practice rate in effect during the year the practice was performed. The deduction shall be made from the payment of the person responsible for destroying or not maintaining the practice after the payment has been increased in accordance with the provisions of § 701.905.

(c) *Practices defeating purposes of programs.* If the State committee finds that any producer has adopted or participated in any practice which tends to defeat the purpose of the 1948 or previous programs, it may withhold or require to be refunded all or any part of any payment which has been or would be computed for such person.

(d) *Depriving others of payment.* If the State committee finds that any person has employed any scheme or device (including coercion, fraud, or misrepresentation) the effect of which would be or has been to deprive any other person of any payment under the program, it may withhold, in whole or in part, from the person participating in or employing such a scheme or device, or require him to refund in whole or in part, the amount of any payment which has been or would otherwise be made to him in connection with the 1948 program.

(e) *Failure to carry out approved erosion control measures.* Payment will not be made to any person with respect to any farm which he owns or operates in a county if the county committee finds that he has been negligent and careless in his farming operations by failing to carry out approved erosion control measures on land under his control to the extent that any part of such land has become an erosion hazard during the 1948 program year to other land in the community.

(f) *Payment computed and made without regard to claims.* Any payment or share of payment shall be computed and made without regard to questions of title under State law without deduction of claims for advances (except as provided in paragraph (g) of this section, and except for indebtedness to the United States subject to set-off under orders issued by the Secretary (12 F. R. 1187)), and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(g) *Assignments.* Any person who may be entitled to any payment in connection with the 1948 program may assign his payment, in whole or in part, as security for cash loaned or advances made for the purpose of financing the making of a crop in 1948. No assignment will be recognized, unless it is made in writing on Form ACP-69 and in accordance with the instructions in ACP-70.

§ 707.909 *Application for payment*—(a) *Persons eligible to file applications.* An application for payment with respect to a farm may be made by any producer who is entitled to share in the payment determined for the farm, except where his only payment is earned with conservation materials or services furnished by the ACP Branch and the entire small payment increase, if any, earned by the use of the materials or services has been advanced to the producer.

(b) *Time and manner of filing applications and information required.* Payment will be made only upon application submitted on the prescribed form to the county office. Where conservation materials or services are furnished by the ACP Branch, there need be reported on the application for payment with respect to such materials and services only the total credit and deduction value of the materials and services furnished. Payment may be withheld from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another. Any application for payment may be rejected if any form or information required of the applicant is not submitted to the county office within the time fixed by the Director, ACP Branch, which time shall be not later than December 31, 1949. At least 2 weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms

or required information, and any time limit fixed shall afford a full and fair opportunity to those eligible to file the form or information within the period prescribed. Such notice shall be given by mailing notice to the office of each county committee (local Agricultural Extension Agent in the Insular Area) and making copies available to the press.

§ 701.910 *Appeals*—(a) *Continental United States.* Any producer may, within 15 days after notice thereof is forwarded to or made available to him, request the county committee in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify him of its decision in writing within 15 days after receipt of written request for reconsideration. If the producer is dissatisfied with the decision of the county committee, he may, within 15 days after the decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify him of its decision in writing within 30 days after the submission of the appeal. If he is dissatisfied with the decision of the State committee, he may, within 15 days after its decision is forwarded to or made available to him, request the Director, ACP Branch, to review the decision of the State committee.

Written notice of any decision rendered under this section by the county or State committee shall be issued also to each other producer on the farm who may be adversely affected by the decision.

(b) *Insular Area.* Any producer may, within 15 days after notice thereof is forwarded to or made available to him, request the State committee in writing to reconsider its recommendation or determination in any matter affecting the right to or the amount of his payment with respect to the farm. The State committee shall notify him of its decision in writing within 15 days after receipt of a written request for reconsideration. If the producer is dissatisfied with the decision of the State committee, he may, within 15 days after its decision is forwarded to or made available to him, request the Director, ACP Branch, to review the decision of the State committee.

Written notice of any decision rendered under this section by the State committee shall be issued also to each other producer on the farm who may adversely affected by the decision.

§ 701.911 *State handbooks, bulletins, instructions, and forms.* The ACP Branch is authorized to make determinations and to prepare and issue State handbooks, bulletins, instructions, and forms required in administering the 1948 program.

§ 701.912 *Definitions.* For the purposes of the 1948 program:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Director" means the Director of the Agricultural Conservation Programs Branch, Production and Marketing Administration.

(c) "Insular Area" means Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(d) "State" means any one of the Continental United States, Alaska, Hawaii, Puerto Rico, or the Virgin Islands.

(e) "State committee" means, in the Continental United States, the group of persons designated within any State to assist in the administration of the agricultural conservation program in that State; and, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, the person or persons in charge of the principal office (State office) for each such area.

(f) "Technical committee" means the group of agricultural technicians selected by the State committee to assist in the selection and development of conservation practices for the agricultural conservation program and to advise generally regarding the agricultural conservation program for the State.

(g) "County" means parish or county, respectively, in the Continental United States, and means State, as defined above, insofar as Alaska, Hawaii, Puerto Rico, or the Virgin Islands is concerned.

(h) "County committee" means, in the Continental United States, the group of persons elected within any county to assist in the administration of the agricultural conservation program in that county; and, in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, the person or persons in charge of the principal office (State office) for each such area.

(i) "Person" means an individual, partnership, association, corporation, estate, or trust, or other business enterprise or other legal entity, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Producer" means any person who as landlord, tenant, or sharecropper, participates in the operation of a farm.

(k) "Farm" means all adjacent or nearby farm or range land under the same ownership which is operated by one person, including also:

(1) Any other adjacent or nearby farm or range land which the county committee, in accordance with instructions issued by the Agricultural Conservation Programs Branch, determines is operated by the same person as part of the same unit in producing range livestock or with respect to the rotation of crops, and with workstock, farm machinery, and labor substantially separate from that for any other land; and

(2) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county in which the principal dwelling is situated or, if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

§ 701.913 *Authority, availability of funds, and applicability*—(a) *Authority.* The program is approved pursuant to the authority vested in the Secretary of Agriculture under secs. 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended (49 Stat. 1148, 16 U. S. C. 590g–590q).

(b) *Availability of funds.* The provisions of the 1948 program are necessarily subject to such legislation as the Congress of the United States may hereafter enact; the making of the payments herein provided is contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments will necessarily be within the limits finally determined by such appropriation.

The funds provided for the 1948 program will not be available for the payment of applications filed in the county office after December 31, 1949.

(c) *Applicability.* The provisions of the 1948 program contained herein are not applicable to (1) any department or bureau of the United States Government or any corporation wholly owned by the United States; and (2) grazing lands owned by the United States which were acquired or reserved for conservation purposes or which are to be retained permanently under Government ownership, including, but not limited to, grazing lands administered under the Taylor Grazing Act by the Bureau of Land Management or the Fish and Wildlife Service of the United States Department of the Interior, or by the Forest Service or the Soil Conservation Service of the United States Department of Agriculture.

The program is applicable to (1) privately owned lands; (2) lands owned by a State or political subdivision or agency thereof; (3) lands owned by corporations which are partly owned by the United States, such as Federal Land Banks and Production Credit Associations; (4) lands temporarily owned by the United States or a corporation wholly owned by it, which were not acquired or reserved for conservation purposes, including lands administered by the Farmers Home Administration, the Reconstruction Finance Corporation, the Home Owners' Loan Corporation, the Federal Farm Mortgage Corporation, the Departments composing the National Military Establishment, or by any other Government agency designated by the ACP Branch; (5) any cropland farmed by private persons which is owned by the United States or a corporation wholly owned by it; and (6) Indian lands, except that where grazing operations are carried out on Indian lands administered by the Department of the Interior, such lands are within the scope of the program only if covered by a written agreement approved by the Department of the Interior giving the operator an interest in the grazing and forage growing on the land and a right to occupy the land in order to carry out the grazing operations.

Done at Washington, D. C., this 6th day of October 1947. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9122; Filed, Oct. 9, 1947; 8:47 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 116—CIVIL AIR NAVIGATION

EXAMINATION IN HAWAII OF AIRCRAFT PASSENGERS AND CREW MEMBERS PROCEEDING TO MAINLAND

Correction

In Federal Register Doc. 47-9047 appearing at page 6593 of the issue for Tuesday, October 7, 1947, the following changes to § 116.9 *Documents for clearance* (also designated as § 6.9 of Title 19 and § 71.509 of Title 42) are made:

a. In paragraph (f) (6) the twentieth line should read "cases of aliens not admitted to the"

b. In paragraph (f) (7) the seventh line should read "zenship which it is impracticable to deter-"

TITLE 10—ARMY WAR DEPARTMENT

Subtitle A—Organization, Function and Procedures of the Department of the Army

Subtitle B—Regulations of the Department of the Army

CHANGES IN TERMINOLOGY

Pursuant to the provisions of the National Security Act of 1947, the following changes in terminology, are effective immediately:

1. The headings of Subtitle A and Subtitle B, Title 10, Code of Federal Regulations, are amended to read as set forth above.

2. Throughout Subtitle A and B, redesignate titles as indicated:

Previous titles	*New titles*
War Department	Department of the Army.
Army Air Forces	Department of the Air Force. United States Air Force.
Secretary of War	Secretary of the Army.
Under Secretary of War	Under Secretary of the Army.
Assistant Secretary of War	Assistant Secretary of the Army.
Chief of Staff	Chief of Staff, United States Army.
War Department General Staff	General Staff, United States Army.
War Department Special Staff	Special Staff, United States Army.
War Department Manpower Board	Manpower Board, Special Staff.
War Department Board of Contract Appeals	Army Board of Contract Appeals.
Secretary of War's Disability Review Board	Army Disability Review Board.
Secretary of War's Discharge Review Board	Army Discharge Review Board.
Secretary of War's Board on Correction of Military Records.	Army Board on Correction of Military Records.

[Cir. 1, Sept. 18, 1947, Department of the Army] (Pub. Law 253, 80th Cong.)

[SEAL] EDWARD F WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-9129; Filed, Oct. 9, 1947; 8:47 a. m.]

Chapter V—Military Reservations and National Cemeteries

PART 504—ARMY EXCHANGES

ACTIVITIES

Rescind paragraph (a) (20) (iii) of § 504.5 and substitute the following in lieu thereof:

§ 504.5 *Activities.* (a) * * *
(20) * * *

(iii) Where space is excess of that required to fulfill the primary mission of the guest house as outlined in subdivisions (ii) (*a*) and (*b*) of this subparagraph is available, the post commander may:

(*a*) Authorize occupancy in the guest house by such other military and civilian personnel as he deems appropriate. In the case of military personnel, rental allowances must be adjusted accordingly as is the case in the occupation of all quarters furnished by the Government.

(*b*) Establish appropriate limits on the length of stay for all personnel in the guest house.

[AR 210-65 June 12, 1945, as amended by WD Cir. 239, Aug. 30, 1947] (R. S. 161, 5 U. S. C. 22)

[SEAL] EDWARD F WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-9118; Filed, Oct. 9, 1947; 8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs Department of the Treasury

PART 6—AIR COMMERCE REGULATIONS

EXAMINATION IN HAWAII OF AIRCRAFT PASSENGERS AND CREW MEMBERS PROCEEDING TO MAINLAND

CROSS REFERENCE: For corrections to § 6.9 *Documents for clearance* which appeared in the issue for Tuseday, October 7, 1947, see Title 8, Chapter I, Part 116, *supra.*

TITLE 24—HOUSING CREDIT

Chapter II—Federal Savings and Loan System

[No. 52]

PART 202—INCORPORATION, CONVERSION, AND ORGANIZATION

REVISION OF CHARTER K

Correction

In Federal Register Document 47-8880, appearing at page 6453 of the issue for Wednesday, October 1, 1947, the following corrections are made in § 202.9:

1. The next to the last sentence of paragraph 12 of Charter K should read:

Dividends upon a share account, to the extent of the amount of the application to repurchase all or part thereof, shall be discontinued while such share account remains upon the repurchase list.

2. The last paragraph of the petition form (appearing under paragraph (a)) should read:

In witness whereof, the Secretary of the undersigned has hereunto affixed his hand and the seal of the undersigned this _____ day of _____, 19_____.

3. The first sentence of paragraph 10 of the bylaws (appearing under paragraph (b)) should read:

These bylaws may be amended at any time by a two-thirds affirmative vote of the board of directors, or by a vote of the members of the association.

Chapter VIII—Office of Housing Expediter

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

Amendment 4 to the rent regulation for controlled rooms in rooming houses and other establishments.[1] Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§ 825.5) is amended in the following respects:

1. Section 1 (a) is amended to read as follows:

SECTION 1. *Definitions and scope of this regulation.* * * *

(a) *Rooms in rooming houses, hotels and other establishments and defense-rental areas to which this regulation applies.* This regulation (except the provisions contained in Schedule B) applies to all rooms in hotels, rooming houses, and other establishments and to all accommodations brought under this regulation by consent of the Area Rent Director pursuant to section 1 (e) and to all accommodations brought under the "Hotel Regulation" by consent of the Area Rent Director pursuant to section 1 (e) of that regulation, within each of the defense-rental areas and each of the portions of a defense-rental area (each of which is referred to hereinafter in this regulation as the "defense-rental area"), which are listed in Schedule A of this regulation, except as provided in paragraph (b) of this section.

In Schedule A of this regulation, "the maximum rent date" and "the effective date of regulation" as established under the rent regulations issued pursuant to the Emergency Price Control Act of 1942, as amended, is given for each defense-rental area listed. More than one effective date is given for different portions of a defense-rental area where the same effective date is not applicable to the entire defense-rental area.

[1] 12 F. R. 4302, 5423, 5457, 5639, 6027.

In Schedule B are set forth provisions which modify or supplement this regulation insofar as it is applicable to certain individual defense-rental areas or portions thereof.

2. The heading "Schedule B—Specific Provisions Relating to Individual Defense-Rental Areas or Portions Thereof" is added at the end of Schedule A.

3. Schedule A, Item 284, is amended to describe the counties in the defense-rental area under the Rent Regulation for Controlled Rooms in Rooming Houses and other Establishments as follows: "Mead, Pennington and that portion of Lawrence described as Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North."

4. Item 1 is incorporated in Schedule B as follows:

1. Provisions relating to Lawrence County, South Dakota, in the Rapid City-Sturgis Defense-Rental Area.

Decontrol based upon the recommendation of the Local Advisory Board. The application of the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments is terminated in Lawrence County with the exception of Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North.

5. Item 2 is incorporated in Schedule B as follows:

2. Provisions relating to Jefferson County, Kentucky, in the Louisville Defense-Rental Area.

Increases in maximum rents based upon the recommendation of the Local Advisory Board. Effective October 9, 1947, the maximum rents for all housing accommodations in Jefferson County, Kentucky, in the Louisville Defense-Rental Area shall be increased 5%, except in cases in which the maximum rent has been established under section 4 (b) of this regulation prior to the effective date of this amendment. All provisions of this regulation insofar as they are applicable to the Louisville Defense-Rental Area are hereby amended to the extent necessary to carry this provision into effect.

This amendment shall become effective October 9, 1947.

Issued this 9th day of October 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer

Statement to Accompany Amendment 4 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments

The local Advisory Board for the Rapid City-Sturgis Defense-Rental Area, South Dakota, has, in accordance with section 204 (e) (1) (A) of the Housing and Rent Act of 1947, recommended the decontrol of Lawrence County with the exception of Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North (including the City of Spearfish) on the ground that the need to continue maximum rents in that portion of the area no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met.

The Local Advisory Board for that portion of the Louisville Defense-Rental Area known as Jefferson County, Kentucky, has, in accordance with section 204 (e) (1) (B) of the Housing and Rent Act of 1947, recommended an increase in the general rent level in Jefferson County, Kentucky, of 5%, which is to be effective to increase maximum rents except where leases were previously entered into in accordance with section 4 (b) of the Regulation.

The Housing Expediter has found that these recommendations are appropriately substantiated and are in accordance with the applicable law and regulation, and is therefore issuing this amendment to effectuate these recommendations.

[F. R. Doc. 47-9167; Filed, Oct. 9, 1947; 9:53 a. m.]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

CONTROLLED HOUSING RENT REGULATION

Amendment 4 to the Controlled Housing Rent Regulation.[1] Controlled Housing Rent Regulation (§ 825.1) is amended in the following respects:

1. Section 1 (a) is amended to read as follows:

SECTION 1. *Definitions and scope of this regulation.* * * *

(a) *Housing and defense-rental areas to which this regulation applies.* This regulation (except the provisions contained in Schedule B) applies to all housing accommodations within each of the defense-rental areas and each of the portions of a defense-rental area (each of which is referred to hereinafter in this regulation as the "defense-rental area") which are listed in Schedule A of this regulation, except as provided in paragraph (b) of this section.

In Schedule A, "the maximum rent date" and "the effective date of regulation" as established under the rent regulation, issued pursuant to the Emergency Price Control Act of 1942, as amended, is given for each defense-rental area listed. More than one effective date is given for different portions of a defense-rental area where the same effective date is not applicable to the entire defense-rental area.

In Schedule B are set forth provisions which modify or supplement this regulation insofar as it is applicable to certain individual defense-rental areas, or portions thereof.

2. The heading "Schedule B—Specific Provisions Relating to Individual Defense-Rental Areas or Portions Thereof" is added at the end of Schedule A.

3. Schedule A, Item 284, is amended to describe the counties in the defense-rental area under the Rent Regulation for Housing as follows: "Meade, Pennington and that portion of Lawrence described as Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North."

4. Item 1 is incorporated in Schedule B as follows:

1. Provisions relating to Lawrence County, South Dakota, in the Rapid City-Sturgis Defense-Rental Area.

Decontrol based upon the recommendation of the local Advisory Board. The application of the Controlled Housing Rent Regulation is terminated in Lawrence County with the exception of Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North.

5. Item 2 is incorporated in Schedule B as follows:

2. Provisions relating to Jefferson County, Kentucky, in the Louisville Defense-Rental Area.

Increases in maximum rents based upon the recommendation of the Local Advisory Board. Effective October 9, 1947 the maximum rents for all housing accommodations in Jefferson County, Kentucky, in the Louisville Defense-Rental Area shall be increased 5 per cent, except in cases in which the maximum rent has been established under section 4 (b) of this regulation prior to the effective date of this amendment. All provisions of this regulation insofar as they are applicable to the Louisville Defense-Rental Area are hereby amended to the extent necessary to carry this provision into effect.

This amendment shall become effective October 9, 1947.

Issued this 9th day of October 1947.

OFFICE OF THE HOUSING EXPEDITER,
By JAMES V. SARCONE,
Authorizing Officer.

Statement to Accompany Amendment 4 to the Controlled Housing Rent Regulation

The Local Advisory Board for the Rapid City-Sturgis Defense-Rental Area, South Dakota, has, in accordance with section 204 (e) (1) (A) of the Housing and Rent Act of 1947, recommended the decontrol of Lawrence County with the exception of Sections 2, 3, 4, 9, 10, 11, 14, 15, 16, 21, 22, 23, Township 6—North (including the City of Spearfish) on the ground that the need to continue maximum rents in that portion of the area no longer exists due to the fact that the demand for rental housing accommodations has been reasonably met.

The Local Advisory Board for that portion of the Louisville Defense-Rental Area known as Jefferson County, Kentucky, has, in accordance with section 204 (e) (1) (B) of the Housing and Rent Act of 1947, recommended an increase in the general rent level in Jefferson County, Kentucky of 5 per cent, which is to be effective to increase maximum rents except where leases were previously entered into in accordance with section 4 (b) of the Regulation.

The Housing Expediter has found that these recommendations are appropriately substantiated and are in accordance with the applicable law and regulation, and is therefore issuing this amendment to effectuate these recommendations.

[F. R. Doc. 47-9183; Filed, Oct. 9, 1947; 9:53 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, War Department

PART 207—NAVIGATION REGULATIONS

LAKE WASHINGTON, SEATTLE, WASH., RESTRICTED SEAPLANE OPERATING AREA

Pursuant to the provisions of section 7 of the River and Harbor Act of August

[1] 12 F. R. 4331, 6421, 6464, 6697, 6927.

8, 1917 (40 Stat. 266; 33 U. S. C. 1) the restricted seaplane operating area of the United States Naval Air Station, Sand Point, Seattle, Washington, in Lake Washington, is designated § 207.763 as follows:

§ 207.763 *Lake Washington, Seattle, Wash., restricted seaplane operating area*—(a) *Area.* (1) Beginning at a point 346°07'15" 2113.75 yards, from the tower at the northeast corner of Hangar No. 1, U. S. Naval Air Station, Seattle, Washington; thence 347° 2,000 yards; thence 77° 500 yards; thence 167° 2000 yards; and thence 257° 500 yards, to the point of beginning.

(2) The area will be marked by special pneumatic buoys as follows: Seven each on the easterly and westerly lines, equally spaced, forming two parallel rows 500 yards apart. Each corner buoy will be equipped with a yellow light and all other buoys with green lights. These lights will be lighted only during night flying operations. Each buoy will be marked in addition by black and yellow vertical stripes.

(b) *The regulations.* (1) The area, heretofore described, shall be restricted to seaplanes for use in landing.

(2) No vessel shall operate or anchor in the said area excepting those attendant upon seaplane operations.

(3) All other watercraft shall exercise due caution in navigating across the lake in the waters to the north and to the south of the restricted area, as there may be danger from planes about to land.

[Regs. Sept. 3, 1947, CE 800.2121 (Washington Lake)—ENGWR] (40 Stat. 266; 33 U. S. C. 1)

[SEAL] EDWARD F WITSELL,
Major General,
The Adjutant General.

[F. R. Doc. 47-9130; Filed, Oct. 9, 1947; 8:48 a. m.]

TITLE 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 21—INTERNATIONAL POSTAL SERVICE

SERVICE TO FOREIGN COUNTRIES; ADDITIONAL MAIL SERVICE TO JAPAN

Effective October 10, 1947, the regulations under the country "Japan" (39 CFR, Part 21, Subpart B) as amended (12 F R. 1891, 6075) are further amended by adding a new paragraph (5) to the subitem "Observations" of the item "Regular mails" reading as follows:

(5) Notwithstanding the preceding paragraph, the following articles of printed matter may be accepted for mailing to Japan:

(a) Bibles and all other sacred writings of all religious faiths and sects;

(b) Tracts, other pamphlets, books, journals, and other publications of which at least 50 percent of the content is devoted to matters generally recognized as religious.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL] ROBERT E. HANNEGAN,
Postmaster General.

[F. R. Doc. 47-9112; Filed, Oct. 9, 1947; 8:46 a. m.]

PART 21—INTERNATIONAL POSTAL SERVICE

AIR-MAIL SERVICE

The following amendments are made to Part 21 of Title 39, Code of Federal Regulations:

1. Section 21.20 is amended to read as follows:

§ 21.20 *Air-mail service.* The rates (which include the postage and the fee for air service) are indicated in Subpart B (11 F. R. 12796)

Articles in the regular mails for all foreign countries (except Canada and Mexico) from continental United States or any United States possession, will be forwarded by air to the appropriate United States coast exchange office, and thence by the ordinary means to destination if prepaid 7 cents per ounce. The articles should be marked to show what service is desired, such as "By Air in U. S. A." or "By Air to and in U. S. A."

Articles for Canada and Mexico prepaid 5 cents per ounce will be carried by air to and within those countries.

Articles for transmission by air to any foreign country should have affixed the blue "Par Avion/By Air Mail" label (Form 2978) That label, however, is not to be affixed to articles intended for transmission by air within the United States only.

The use of air-mail stamps on other than air-mail articles is not permissible.

Articles intended for dispatch by air to foreign countries must be fully prepaid. The office of mailing shall observe whether the articles are sufficiently prepaid. If insufficiently prepaid and the return address is at the office of mailing the articles shall be returned to the senders for the necessary additional postage. When articles returned for postage are again presented for mailing the postage stamps originally affixed will be accepted to the amount of their face value. If the article bears a return address other than at the office of mailing it shall be forwarded to the dispatching exchange office, provided it is sufficiently prepaid for transmission by the ordinary means. Upon receipt at the dispatching exchange office the article shall be forwarded to destination by the ordinary means, after the "Par Avion" label or other air mail endorsement has been eliminated. The weight of the card prepared for return receipt of a registered air mail article shall not be included with the weight of the letter in determining the amount of air mail postage required. The treatment of short-paid air mail for possessions of the United States is indicated in paragraph 13 on page 11 of the United States Official Postal Guide, Part 1.

Air mail articles may be registered, but may not be insured and may not be sent c. o. d.

When prepaid at the regular air-mail rates, packages up to the limit of weight prescribed for letters, containing dutiable articles (merchandise), will be accepted for dispatch by air, provided the country concerned has indicated a willingness to accept such articles and they are prepared for mailing in acccordance with the provisions of § 21.3.

Postal Union (regular) mails, other than letters and letter packages, will be also accepted for dispatch by air provided they are prepared for mailing in accordance with the provisions of §§ 21.5 to 21.12, inclusive, and are prepaid at the regular air mail rates.

There is no provision for the dispatch to foreign countries by air mail of parcel post packages as such, and under no circumstances should Form 2922, Form 2966, or any other form intended for parcel post packages exclusively, be used on articles to be sent by air to any foreign country.

2. Section 21.21 is rescinded.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 372, 22, 369)

[SEAL] ROBERT E. HANNEGAN,
Postmaster General.

[F. R. Doc. 47-9113; Filed, Oct. 9, 1947; 8:46 a. m.]

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Federal Security Agency

PART 71—FOREIGN QUARANTINE

EXAMINATION IN HAWAII OF AIRCRAFT PASSENGERS AND CREW MEMBERS PROCEEDING TO MAINLAND

CROSS REFERENCE: For corrections to § 71.509 *Documents for clearance* which appeared in the issue for Tuesday, October 7, 1947, see Title 8, Chapter I, Part 116, *supra.*

PROPOSED RULE MAKING

TREASURY DEPARTMENT

Bureau of Internal Revenue

[26 CFR, Part 176]

DRAWBACK ON DISTILLED SPIRITS AND WINES

NOTICE OF PROPOSED RULE MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under authority of sections 2887, 3170, 3176, 3179, as amended, 3351 (c) 3361 (c), as amended, 3791, 4041 of the Internal Revenue Code (U. S. C., title 26, sections 2887, 3170, 3176, 3179, as amended, 3351 (c) 3361 (c) as amended, 3791, 4041) and sections 309 (a) (b) (c) (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d) and 1313 (d) (i).)

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

1. The act of July 14, 1947 (Pub. Law 185, 80th Cong.) amends subsection (b) of section 3179 of the Internal Revenue Code to read as follows:

(b) *Drawback.* Upon the exportation of distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, and which are contained in any cask or package or in bottles packed in cases or other containers, there shall be allowed, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, a drawback equal in amount to the tax found to have been paid on such distilled spirits and wines: *Provided,* That such distilled spirits and wines have been packaged or bottled especially for export, under regulations prescribed by the Commissioner, with the approval of the Secretary. The Commissioner, with the approval of the Secretary, is authorized to prescribe regulations governing the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as shall be deemed necessary.

2. Pursuant to the foregoing provisions of law and sections 2887, 3170, 3176, 3351 (c) 3361 (c) as amended, 3791, 4041 of the Internal Revenue Code (U. S. C., title 26, sections 2887, 3170, 3176, 3351 (c), 3361 (c) as amended, 3791, 4041) and sections 309 (a) (b) (c) (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b, (c) (d) and 1313 (d) (i)) Regulations 28, approved August 29, 1940 (26 CFR, Part 176) as amended, are hereby amended in these respects:

(a) Sections 176.16 (b) (2) and 176.19 (b) are revoked;

(b) Sections 176.3 (h-1), 176.17a, 176.17b, 176.17c, 176.17d, 176.17e, 176.17f, 176.17g, 176.17h, 176.17i, 176.17j, 176.17k, 176.17m, 176.17n, 176.17o and 176.17p are added; and §§ 176.1, 176.11 (a), 176.12, 176.13, 176.14, 176.15, 176.16 (b) 176.18, 176.19, 176.20, 176.21, 176.24, 176.31, 176.32, 176.34, 176.35 (a) 176.36, 176.37, 176.39, 176.41, 176.42 (a) 176.46, 176.48, 176.49 (a), 176.52 (a) 176.53, 176.56 and 176.58 (a) are amended, as follows:

SCOPE OF REGULATIONS

§ 176.1 *Drawback on distilled spirits and wines.* The regulations in this part are prescribed pursuant to the provisions of law governing the allowance of drawback of internal revenue tax on (a) domestic alcohol used in the manufacture or production of flavoring extracts, and medicinal or toilet preparations (including perfumery), upon the exportation of such products, (b) distilled spirits and wines packaged, or bottled, especially for export, upon the exportation thereof, and (c) distilled spirits exported in distillers' original packages containing not less than 20 wine gallons each. (Secs. 2887, 3170, 3176, 3179, as amended, 3351 (c), 3361 (c) as amended, 3791, 4041, I. R. C., and secs. 309 (a) (b) (c) (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d) and 1313 (d), (i)))

DEFINITIONS

§ 176.3 *Definitions.* * * *

(h-1) "Package" shall mean any cask, barrel, drum or other approved container, containing 5 wine gallons or more.

DRAWBACK ON DISTILLED SPIRITS AND WINES BOTTLED OR PACKAGED ESPECIALLY FOR EXPORT

§ 176.11 *Drawback authorized—(a) Allowance upon exportation.* The regulations in §§ 176.11 to 176.67, inclusive, are prescribed for the packaging and bottling, especially for export, of distilled spirits and wines manufactured or produced in the United States on which an internal revenue tax has been paid, and for the allowance, upon the exportation thereof, of a drawback equal in amount to the tax found to have been paid thereon.

* * * * *

§ 176.12 *Exportation.* An exportation is an act defined by § 176.3 (g) The provisions of §§ 176.11 to 176.67, inclusive, relating to the packaging and bottling of distilled spirits and wines especially for export, and the exportation thereof with benefit of drawback, and the forms prescribed for use in connection therewith, shall apply to like packaging, bottling, removal and shipment to American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Panama Canal Zone. There is no authority of law for the packaging or bottling of distilled spirits and wines especially for export, with benefit of drawback, for shipment to Alaska, Hawaii, Kingman's Reef, the Midway Islands, or Wake Island. (Secs. 3179 (b) as amended, 3351 (c) 3361 (c), as amended, I. R. C., and secs. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a), (b) (c) (d)))

BOTTLING AND PACKAGING ESPECIALLY FOR EXPORT

§ 176.13 *Persons authorized to bottle or package—(a) Distilled spirits and wines.* Persons who are authorized to bottle distilled spirits under the provisions of the Federal Alcohol Administration Act, and who have qualified either as a rectifier or proprietor of a tax-paid bottling house under internal revenue laws and regulations, may bottle or package, especially for export with benefit of drawback, distilled spirits or wines, or both, manufactured or produced in the United States on which an internal revenue tax has been paid.

(b) *Wines.* Duly qualified winemakers and proprietors of bonded storerooms operating tax-paid premises, may bottle or package, especially for export with benefit of drawback, at their tax-paid premises, wines manufactured or produced in the United States on which an internal revenue tax has been paid. (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V. 1309 (a) (b) (c) (d)))

§ 176.14 *Other regulations applicable.* The provisions of Regulations 11 (26 CFR, Part 189) and Regulations 15 (26 CFR, Part 190) in so far as they are applicable and not inconsistent with the provisions of the regulations in this part, shall govern the bottling and packaging of distilled spirits and wines to be exported with benefit of drawback by proprietors of tax-paid bottling houses and rectifiers.

§ 176.15 *Export storage room—(a) Construction.* Winemakers and proprietors of bonded storerooms, intending to bottle or package tax-paid wines especially for export with benefit of drawback, shall provide, at their tax-paid premises, an export storage room suitable for the storage of such wines pending their removal for export. The room must be so situated and constructed that the wines will be properly protected pending their removal for exportation. Such room shall be equipped for locking with a Government seal lock, the key of which shall be kept by the storekeeper-gauger or designated officer, and shall be locked and kept locked except when necessarily open for the proper conduct of the export business.

(b) *Notice of intention to bottle or package.* When an export storage room has been provided in accordance with paragraph (a) of this section, the winemaker or proprietor of a bonded storeroom, either before or at the time of filing application to dump wines for bottling or packaging especially for export, as hereinafter provided, shall file

with the district supervisor a written notice of his intention to bottle or package wines especially for export at his tax-paid premises. Such notice shall also show the location and nature of construction of the export storage room. (Sec. 3179 (b), I. R. C., as amended, and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

BOTTLING OR PACKAGING WITHOUT RECTIFICATION

§ 176.16 *Bottling of distilled spirits or wines without rectification by rectifiers and proprietors of tax-paid bottling houses.* * * *

(b) *Approval of Form 230.* The bottler shall submit all copies of the application (Form 230) to the storekeeper-gauger. The officer shall examine the packages described in the application and the scalped portions of tax-paid stamps, or the affidavit or statement in lieu thereof attached to the original of the form, and if he finds that the spirits or wines to be bottled especially for export are as described and have been lawfully tax-paid, and all copies of the form are properly prepared, he shall execute his certificate and the authorization for bottling, and return all copies to the bottler.

* * * * *

PACKAGING OF DISTILLED SPIRITS AND WINES WITHOUT RECTIFICATION

§ 176.17a *Packaging of distilled spirits and wines*—(a) *Application, Form 1684.* Where unrectified spirits or wines, or spirits and wines which have been previously rectified, are to be dumped for packaging especially for export by a rectifier or proprietor of a tax-paid bottling house, or where unrectified wines or wines which have been previously rectified are to be dumped for packaging especially for export by a winemaker, the packer shall prepare a separate application on Form 1684, in triplicate, for each lot of spirits or wines to be packaged, giving all the data called for by the headings of the columns and lines and instructions printed on the form. Each Form 1684 shall be given a serial number, beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(b) *Spirits or wines rectified at other premises.* Where spirits or wines to be dumped have been rectified, there must be attached to the Form 1684 Forms 122 and 237 covering the dumping, rectification, and original packaging of the liquors. In the event imported spirits or wines entered into the original production of the liquors, Form 1583, procured from the collector of customs at the port of entry and showing internal revenue tax had been collected thereon, must be attached to the Form 1684. The Form 1684 shall make reference to the Forms 122 and 237 covering the original dumping and rectification of the spirits or wines. (Sec. 3179 (b) I. R. C., as amended, and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

§ 176.17b *Evidence of tax-payment to be attached to form*—(a) *Stamps.* If distilled spirits to be dumped are contained in stamped packages, the stamps thereon must be scalped and securely attached to the application.

(b) *Lost or mutilated stamps.* Where a stamp has been lost or mutilated so that the required portion thereof cannot be returned, an affidavit, setting forth all the facts in the case, shall be made by the applicant and attached to the original copy of the application.

(c) *Form 1595.* If spirits to be packaged were received in a tank car, or by pipe line, the application shall show, in addition to other required data, the serial number of the certificate of tax-payment (Form 1595) and the date it was submitted to the district supervisor.

(d) *Form 230.* Where the spirits or wines to be packaged have been dumped from the stamped container in which received, the application shall show, in addition to other required data, the date and serial number of the Form 230 pursuant to which the spirits or wines were dumped.

(e) *Wine stamps.* Since it is impracticable to cut out or scalp wine stamps, the applicant shall, whenever wines are to be dumped from properly stamped containers, certify to such fact by writing the words "wine stamps attached to the containers" in the column provided for the description of stamps on the Form 1684. If the wine to be dumped is in an unstamped container, the applicant shall attach to each copy of the Form 1684 a statement explaining the absence of wine stamps.

(f) *Distilled spirits or wines in stamped bottles.* Domestically produced spirits and wines may be dumped from bottles for packaging only when they are contained in cases as originally packed and the tax-paid status is properly shown. In the case of rectified products there must be attached to the Form 1684 Forms 122 and 237 covering the dumping, rectification, and original bottling of the liquors. In the case of tax-paid distilled spirits or wines, which have been bottled without rectification, Form 230 covering the original bottling of the liquors must be attached to the Form 1684. In the event imported spirits or wines entered into the original production of the liquors, Form 1583, procured from the collector of customs at the port of entry and showing internal revenue tax had been collected thereon, must be attached to the Form 1684. The Form 1684 shall make reference to the Forms 122, 230 and 237 covering the original dumping and rectification or bottling of the spirits or wines.

(g) *Action by storekeeper-gauger* Where scalped portions of stamps denoting payment of internal revenue tax are not attached by reason of facts or circumstances described in paragraphs (b) (c), (d) (e) and (f) of this section, the distilled spirits or wines must be inspected by the storekeeper-gauger before being dumped. The officer must satisfy himself that the distilled spirits or wines have been lawfully tax-paid, and shall attach to each copy of the Form 1684 a statement, over his signature, setting forth (1) the reason why the scalped portions of the stamps are not attached and (2) the facts upon which he based his findings. (Sec. 3179 (b) I. R. C., as amended, and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b), (c) (d)))

§ 176.17c *Approval of Form 1684.* The packer shall submit all copies of the application (Form 1684) to the storekeeper-gauger. The officer shall examine the containers described on the form and the scalped portions of the tax-paid stamps or the affidavit or statement in lieu thereof, attached to each copy of the form. If he finds the distilled spirts or wines to be lawfully tax-paid and not subjected to any act of rectification after dumping by the packer and finds the entries on the application are properly and correctly given, he shall execute his certificate and the authorization for packaging and return all copies of the form to the rectifier. (Sec. 3179 (b), I. R. C., as amended, and sec. 309 (a) (b), (c), (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b), (c), (d)))

§ 176.17d *Transfer of spirits or wines to package filling tank.* Upon approval of the Form 1684 by the storekeeper-gauger, as provided in § 176.17c, the distilled spirits or wines shall be transferred to a package filling tank where, after reduction to the desired proof (if reduced in proof) the packer shall gauge the distilled spirits or wines in accordance with the applicable provisions of § 176.17j and enter the details of his gauge (corrected to volume in accordance with Table 7 of the Gauging Manual (26 CFR, Part 186)) on all copies of the Form 1684 and attach one copy of the form to the tank: *Provided,* That, where the dumping and reducing tank is constructed in accordance with the provisions of § 190.40a of Regulations 15 (26 CFR, Part 190) or § 189.18a of Regulations 11 (26 CFR, Part 189) as the case may be, and is equipped for locking with Government locks such tank may be used as the package filling tank. The proof determined by gauging the contents of the tank shall be regarded as the proof of the spirits run into all packages filled from the tank. Except as provided in § 176.17f, all unrectified spirits and wines packaged especially for export shall be packaged from an approved package filling tank or dumping and reducing tank. (Sec. 3179 (b) I. R. C., as amended, and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

§ 176.17e *Reduction in proof of spirits.* Unrectified distilled spirits may be reduced in proof prior to being drawn into packages. The reduction in proof or the increase in volume of rectified spirits on which the rectification tax has been paid is prohibited by law, unless the spirits are again rectified and the rectification tax again paid thereon. However, a restoration of the proof and volume of rectified spirits upon which the rectification tax has been paid, by the addition of water, preparatory to being drawn into packages, shall not be deemed a reduction in proof or an in-

crease in volume within the meaning of section 2801 (b) of the Internal Revenue Code. Section 2801 (b) of the Internal Revenue Code is not applicable to the reduction in proof of domestically rectified spirits exempt from rectification tax. (Secs. 2801 (b) (e) (1), 3176, 3179 (b) as amended, I. R. C.)

§ 176.17f *Packaging from original container* Where authorized by the district supervisor, wines, cordials, and liqueurs that require packaging from the original container may be so packaged. A packer desiring to package such liquors from the original containers must request approval of the district supervisor, in writing, describing the liquors and showing the necessity for packaging the same from the original container. The district supervisor will authorize the packaging from the original container of any wines, cordials, and liqueurs which it is impracticable to package from an approved filling tank. (Secs. 3176, 3179 (b) as amended, I. R. C.)

§ 176.17g *Locking of the filling tank.* At the time of opening the inlet to the filling tank or the dumping and reducing tank, as the case may be, the storekeeper-gauger shall lock the outlet thereof. The outlet must remain closed and locked until the spirits or wines have been transferred to the tank, the inlet closed and locked, and the quantity of spirits or wines in the tank determined. The inlet of the tank must remain locked until all spirits or wines within the tank have been drawn into packages and the outlet has been closed and locked. (Secs. 2801 (e) (1) 3176, 3179 (b) as amended, I. R. C.)

§ 176.17h *Rinsing of barrels; destruction of stamps, marks, etc.* When spirits or wines are dumped for packaging without rectification the provisions of §§ 190.192, 190.194, 190.195 and 190.238 of Regulations 15 (26 CFR, Part 190) and §§ 189.85, 189.86 and 189.87 of Regulations 11 (26 CFR, Part 189) respecting the destruction of stamps and marks and brands, the rinsing of barrels and woodchips contained therein, and disposition of woodchips, when packages are dumped, shall be applicable. (Secs. 3176, 3179 (b) as amended, I. R. C.)

§ 176.17i *Filling of packages.* Packages of distilled spirits or wines, for exportation with benefit of drawback, may be filled only under the immediate personal supervision of the storekeeper-gauger. The packages shall be filled pursuant to the rules prescribed in the Gauging Manual (26 CFR, Part 186) and shall be filled to capacity, except (a) where the Commissioner authorizes a certain wantage in each package for expansion and (b) where there are insufficient spirits or wines at the end of the operation to fill the last package, in which case the remaining liquor may be removed for domestic purposes or drawn into a remnant package containing not less than 5 wine gallons for exportation. Proper notation shall be made on Form 1684 of the disposition of any spirits or wines not drawn into packages for exportation. (Secs. 3176, 3179 (b) as amended, I. R. C.)

§ 176.17j *Gauging of spirits and wines*—(a) *Determining proof of unsweetened spirits.* The proof of distilled spirits and rectified spirits to which saccharine or other solid matter has not been added shall be determined by the use of a standard hydrometer.

(b) *Determining alcoholic content of wines and proof of sweetened spirits.* The alcoholic content (1) of blended whiskies containing more than 0.6 gram or 600 milligrams of solids per 100 milliliters derived from blending materials such as sherry wine, prune juice, caramel, glycerine, etc., and (2) of wines, cordials, liqueurs, and other products containing saccharine or other solid matter will be determined by the use of an approved ebulliometer or a small laboratory still provided by the packer. When using such instruments the packer must follow closely the instructions furnished therewith in order that accurate determinations may be made. Instructions relative to the use of small laboratory stills (or wine sets) and the following ebulliometers: Arnaldo - Sala (with shield) Braun, Juerst, Lafco, L'Ebulliometer Leveque (with shield) Malligand (with shield) Salleron-Dujardin, "TAG" (with shield) and E. B. Torino (with shield) are also set forth in the Appendix to Regulations 7, Wine—1945 (26 CFR, Part 178). The alcoholic content of blended spirits containing not more than 0.6 gram or 600 milligrams of solids per 100 milliliters derived from blending materials will be determined by the use of a standard hydrometer or a small still. If determined by a standard hydrometer an obscuration correction factor may be added to the apparent proof in order to obtain the true proof of the blended spirits. Experience has shown that 0.1 gram or 100 milligrams of solids per 100 milliliters will obscure the true proof 0.4 of 1° of proof. For example, if a blended whisky contains 0.25 gram or 250 milligrams of solids per 100 milliliters and the apparent proof corrected to 60° Fahrenheit is found to be 89° proof by a standard hydrometer, a correction factor of 1° of proof (2.5 times 0.4) due to the solids may be added to the apparent proof, hence the true proof would be 90° The solids in blended spirits due to blending materials will be determined by evaporating 25 milliliters of the blended spirits in a weighed dish on a steam bath and then heating for 30 minutes at the temperature of boiling water in a drying oven. The solids thus determined, multiplied by 4, will give the solids in 100 milliliters of blended spirits. The correction factor to be used then will be determined on the basis that every 100 milligrams of solids will obscure the proof 0.4 of 1° of proof. The ebulliometer should not be used in determining the alcoholic content of blended spirits containing not more than 0.6 gram or 600 milligrams of solids per 100 milliliters.

(c) *Determining contents by weight.* Unrectified spirits and rectified spirits containing not more than 0.6 gram or 600 milligrams of saccharine or other solid matter per 100 milliliters which are drawn into packages may be gauged by weight in accordance with the official Gauging Manual. To this end accurate scales must be provided. Government officers shall frequently test, by means of the test weights provided by the rectifier or proprietor of the tax-paid bottling house, the accuracy of the scales used for weighing packages.

(d) *Determining contents by measure.* Packages of rectified spirits, wines, cordials, liqueurs, and other products containing saccharine and other solid matter shall be gauged by measure to determine the wine-gallon content (corrected to volume in accordance with Table 7 of the Gauging Manual) the proof-gallon content shall then be determined by multiplying the wine-gallon content by the proof (pointed off in two decimal places) of the spirits. The capacity of each package must be ascertained before the liquors are placed therein, or the quantity to be placed in each package must first be ascertained by actual measure in another vessel provided for that purpose: *Provided, however* That the quantity in wine gallons of any liquor placed in packages may be determined by weight if the specific gravity of the liquor is ascertained and used in calculating the volume. (Secs. 3170, 3176, 3179 (b), as amended, I. R. C.)

§ 176.17k *Stamps not required on packages.* No rectifier's stamps or wholesale liquor dealer's stamps shall be affixed to packages of distilled spirits or wines filled especially for export with benefit of drawback (Sec. 3179 (b) I. R. C., as amended)

§ 176.17m *Verification by storekeeper-gauger.* The storekeeper-gauger shall, upon completion of the process of filling of packages, including the marking and branding of the packages, complete his verification of the packer's certificate on Form 1684 and supervise the removal of the spirits or wines to the export storage room. (Sec. 3179 (b) as amended, I. R. C., and secs. 303 (a) (b) (c) (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1303 (a) (b) (c) (d)))

§ 176.17n *Disposition of Form 1684.* Immediately after the completion of the packaging and the proper completion of Form 1684, the packer shall forward two copies of the Form 1684 (one, the original with the tax-paid stamps or other evidence of tax-payment attached) to the district supervisor and shall retain the remaining copy. (Sec. 3179 (b) as amended, I. R. C., and secs. 303 (a) (b) (c), (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1303 (a) (b) (c) (d)))

§ 176.17o *Action by the district supervisor.* Upon receipt of the Form 1684 the district supervisor shall prepare Form 1600 using as a basis therefor the dumping and packaging record, Form 1684. He shall then forward the Form 1600 to the Commissioner with a copy of the Form 1684. The Forms 1684 and 1600 will be retained by the Commissioner for use in connection with examination and certification of the claims for drawback on such spirits or wines. (Sec. 3179 (b) as amended, I. R. C., and secs. 303 (a) (b) (c) (d) and 313 (d), (i) of the Tariff Act of 1930, as amended (19

U. S. C., Sup. V 1309 (a) (b) (c) (d) and 1313 (d) (i)))

§ 176.17p *Transfer and storage pending exportation.* Spirits or wines packaged especially for export under the provisions of the regulation in this part may be transferred from the export storage room pursuant to Form 1656 to another export storage room at the port of exportation, for storage pending release for direct exportation or use as supplies on vessels or aircraft. Such export storage room at the port of exportation may be established under the provisions of these regulations, Regulations 15 (26 CFR, Part 190) or Regulations 11 (26 CFR, Part 189) whether or not the proprietor intends to package distilled spirits or wines especially for export. Form 1656 shall be executed in quadruplicate (or quintuplicate, if the spirits or wines are to be transferred to another supervisory district) by the packer or exporter after appropriate arrangements have been made by him with the proprietor of the export storage room at the port of exportation for such storage. All copies of the form will then be submitted to the district supervisor, or designated officer, for approval. On approval thereof, the spirits or wines may be released by the Government officer for transfer. The officer shall retain one copy for his files, furnish one copy to the packer, forward one copy to the district supervisor, and forward one copy to the consignee. If the spirits or wines are transferred to another district, the storekeeper-gauger shall forward one copy to the district supervisor of such district. Spirits or wines so transferred and stored will be entered for drawback and marked and released for exportation, etc., in accordance with the procedure prescribed in sections 176.35 to 176.38, inclusive. (Sec. 3179 (b) as amended, I. R. C., and secs. 309 (a) (b) (c), (d) and 313 (d) (i) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d) and 1313 (d) (i)))

RECTIFICATION AND BOTTLING OR PACKAGING

§ 176.18 *Application, Form 122.* Rectifiers shall prepare a separate application on Form 122, "Rectifier's Application to Dump Spirits, Wines, or other Liquors, and Return of Gauge," in triplicate, for each lot of spirits or wines to be rectified before being bottled or packaged for exportation with benefit of drawback. The rectifier shall insert in each copy of the form, after the description of the packages to be dumped for rectification, a notice of intention as follows:

The above described spirits (or wines) will, after rectification, be bottled (or packaged) pursuant to approval of Form 237 especially for export with benefit of drawback.

(Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a), (b) (c) (d)))

§ 176.19 *Approval of Form 122.* All copies of the Form 122 shall be submitted for approval of the storekeeper-gauger assigned to supervise rectifying operations. The storekeeper-gauger shall examine the packages described in the application and the scalped portions of the tax-paid stamps or the affidavit or statements in lieu thereof, attached to the original of the form, and, if he finds that the spirits or wines to be dumped for rectification and bottling or packaging especially for export are as described, and have been lawfully tax-paid, and the forms are properly prepared, he shall execute his certificate and authorize the rectifier to dump the packages described in the application and return all copies of the form to the rectifier. Immediately after dumping the spirits or wines, the rectifier shall forward two copies of the Form 122 (one, the original, with the cut-out portions of the tax-paid stamps, or other prescribed evidence of tax-payment, attached) to the district supervisor, and retain the remaining copy of such form on file at the rectifying plant. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup V 1309 (a) (b) (c) (d)))

§ 176.20 *Mixing of distilled spirits or wines tax-paid at different rates.* When a rectifier manufactures distilled spirits to be bottled or packaged especially for export with benefit of drawback by a process of rectification involving the mixing of distilled spirits and wines upon which basic taxes were paid at different rates (i. e., alcohol and wine, brandy and wine, etc.) he shall note on Form 122 the number of proof gallons of each kind of spirits and the number of wine gallons, and percentage of alcohol, of the wine mixed together in the processing receptacle, and no further mixing of such spirits or wines with spirits or wines contained in any other receptacle shall be made unless a similar notation is made on Form 122. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

§ 176.21 *Application, Form 237—(a) Procedure.* The rectifier shall make application on Form 237 to bottle or package rectified spirits especially for export or package such spirits for subsequent bottling especially for export in accordance with the applicable provisions of §§ 190.276 to 190.309, inclusive, of Regulations 15 (26 CFR, Part 190) and an additional copy of such form shall be prepared in each case. A notice of intention shall be inserted by the rectifier in each copy of Form 237, after the description of the spirits or wines, as follows:

The above described spirits (or wines), rectified pursuant to Form 122, serial number ----, dated ----------, 19--, are to be bottled (or were packaged) especially for export with benefit of drawback.

When the process of manufacturing spirits or wines in accordance with the provisions of § 176.20 has been completed, the rectifier shall note on Form 237 the quantities of distilled spirits, or wines, or both (calculated on a proof-gallon basis as to spirits and on a wine-gallon basis as to wines) used in manufacturing the spirits or wines. If commercial flavoring extracts, containing alcohol, not prepared by the rectifier on his rectifying premises, are used in manufacturing the spirits or wines, the rectifier shall also show on Form 237, as to each kind of flavoring material, the quantity thereof in wine gallons, the percentage of alcohol by volume in such flavoring extracts, and whether drawback under section 3250 (1) Internal Revenue Code, has been or will be claimed on the alcohol contained therein. The rectification tax and wine tax, if due, will then be paid and Form 237 disposed of in accordance with the applicable provisions of §§ 190.276 to 190.309, inclusive, of Regulations 15 (26 CFR, Part 190) The additional copy of Form 237 will be forwarded to the district supervisor with the original copy of Form 237. Upon completion of the bottling or packaging operations, the storekeeper-gauger shall supervise the deposit of the spirits or wines in the export storage room, except as provided by § 176.22.

(1) Each package of distilled spirits or wines filled by rectifiers for export with benefit of drawback shall be marked and branded in accordance with the provisions of § 176.31 and in addition shall bear the words "for export from U. S. A." If the spirits or wines are to be exported by a person other than the rectifier, the name and address of the exporter, preceded by the words "For" or "Packaged for," may also be marked upon the package.

(b) *Tax-paid certificate.* Upon receipt of Form 122, as provided by section 176.19, and the Form 237, as herein provided, the district supervisor shall prepare Form 1600, using as a basis therefor the dumping and bottling or packaging records, Forms 122 and 237. He will then forward the Form 1600 to the Commissioner with a copy each of the Forms 122 and 237, and Form 1583, if any. Forms 122, 237, 1583 and 1600 will be retained by the Commissioner for use in connection with the examination and certification of the claim for drawback on such spirits or wines.

(c) *Transfer and storage pending exportation.* Spirits and wines bottled or packaged especially for export under the provisions of this section may be transferred from the export storage room of the bottler or rectifier, pursuant to Form 1656, to another export storage room at the port of exportation for storage pending release for direct exportation or use as supplies on vessels or aircraft, in accordance with the procedure prescribed in § 176.16 (f) Such export storage room at the port of exportation may be established by the proprietor of a tax-paid bottling house or a rectifier, under the provisions of Regulations 11 (26 CFR, Part 189) or 15 (26 CFR, Part 190) whether or not the proprietor of the tax-paid bottling house or the rectifier intends to bottle or package distilled spirits or wines especially for export. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d)))

SEPARATE BOTTLING AND PACKAGING

§ 176.24 *Separate bottling and packaging.* The bottling or packaging of distilled spirits or wines especially for ex-

port with benefit of drawback at rectifying plants and at tax-paid bottling premises, and such packaging or bottling of wines at tax-paid premises of winemakers and proprietors of bonded storerooms, shall be conducted separately from the bottling or packaging of spirits or wines for domestic purposes: *Provided,* That where small lots are packaged or bottled, necessitating the dumping of not less than the contents of one or more full barrels, in the case of unrectified spirits or wines, or the minimum number of full barrels which may be dumped in the case of spirits which are to be rectified, the remaining portions of such lots not removed for export may be removed for domestic purposes. In the case of rectified spirits or wines, rectified and bottled or packaged by rectifiers, the remnant may be further rectified, if desired, for domestic purposes subject to payment of the rectification tax on the finished product resulting from such additional rectification. Any spirits or wines to be so removed for domestic purposes must be reported as a separate item on Forms 122, 230, 237 or 1684, as the case may be.

(a) *Claim required on Form 1582.* Where distilled spirits and wines are mixed in the process of rectification, for bottling or packaging especially for export with benefit of drawback, claim for drawback of the distilled spirits tax, the rectification tax, and the tax under section 3030 (a), Internal Revenue Code, as amended, shall be made on Form 1582.

Separate claim on Form 1582–A will not be required in such cases. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c), (d)))

MARKING OF CASES AND PACKAGES

§ 176.31 *Required marks by rectifiers and proprietors of tax-paid bottling houses*—(a) *Cases.* Each case of distilled spirits or wines filled by rectifiers for export with benefit of drawback shall bear on one side the markings required by Regulations 15 (26 CFR, Part. 190) and each case filled for the same purpose by proprietors of tax-paid bottling houses shall bear on one side the markings required by Regulations 11 (26 CFR, Part. 189) Each case shall also bear on the same side the words "For export from U. S. A." If the spirits or wines are to be exported by a person other than the bottler, the name and address of the exporter, preceded by the words "For," "Bottled for," or "Bottled expressly for," may also be marked upon the case. The method of marking the cases shall be in accordance with the applicable provisions of Regulations 15 or 11, as the case may be.

(b) *Packages of distilled spirits.* Each package of distilled spirits filled for export with benefit of drawback shall be numbered serially beginning with "1" for the first package filled: *Provided,* That such serial numbers shall be in sequence to the series in current use at existing plants for the numbering of cases or other packages and: *Provided further* That, where cases and packages are filled simultaneously and it is impracticable to number the cases and packages consecutively, separate series of numbers followed by an identifying letter may be used for the packages. In addition to the serial number, there shall be plainly and durably burned, cut, imprinted, or stenciled on the Government head of each barrel or similar container of distilled spirits (1) the kind of spirits; (2) the wine gallon content; (3) the proof of spirits; (4) the proof gallon content; (5) the tare of the container; (6) the date of filling; (7) the name of the packer; (8) the location (city or town and State) of the plant where packaged; and (9) the words "For export from U. S. A." If the spirits are to be exported by a person other than the packer the name and address of the exporter, preceded by the words "For," "Packaged for," or "Packaged expressly for," may also be marked upon the package.

(c) *Packages of wines.* The packer shall place marks upon packages of wine similar to the marks required by the foregoing paragraph to be placed upon packages of distilled spirits, except: The tare need not be marked on the packages; the alcoholic content of the wine shall be shown in percentage by volume in lieu of the proof, and, in the case of unrectified wine, the proof gallons may be omitted. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b), (c) (d)))

§ 176.32 *Required marks by winemakers and proprietors of bonded storerooms*—(a) *Cases.* Each case of wines filled by winemakers and proprietors of bonded storerooms for export with benefit of drawback shall be numbered serially, beginning with number 1 for the first case filled, and shall be marked with the name of the bottler, the location of the bottling establishment (by city or town and State), the kind and alcoholic content (taxable grade) of the wine, the contents of the case in wine gallons, and the words "For export from U. S. A." *Provided,* That the bottler may in lieu of his name, and the location of the bottling establishment, place upon the case the registry number of his bonded winery or bonded storeroom, preceded by the letters "B. W." or "B. S.," respectively, and followed by symbols indicating the State in which the bonded winery or bonded storeroom is located, as "B. W. No. 2–NY," for the name and address of the proprietor of Bonded Winery No. 2 located in New York State. If the wines are to be exported by a person other than the bottler, the name and address of the exported, preceded by the words "For," "Bottled for," or "Bottled expressly for," may also be placed upon the case. The required marks will be durably and plainly printed, stamped, or stenciled on one side of the case in a color contrasting with the background of the case, and in letters and figures not less than one-half inch in height.

(b) *Packages.* Packages of wines filled by winemakers or proprietors of bonded storerooms for export with benefit of drawback shall be marked in accordance with the provisions of § 176.31 (c). (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b), (c) (d)))

BOTTLING AND PACKAGING RECORDS

§ 176.34 *Record of spirits and wines bottled or packaged especially for export*—(a) *By rectifiers and proprietors of tax-paid bottling houses.* The receipt, rectification, bottling, packaging, and disposition of distilled spirits and wines bottled or packaged especially for export, with benefit of drawback, shall be entered by the rectifier on Form 45, "Rectifier's Monthly Record and Report." All applicable information indicated by the headings of the columns and lines and the instructions printed on the form will be entered thereon. The receipt, bottling, packaging, and disposition of distilled spirits or wines bottled or packaged especially for export with benefit of drawback, by proprietors of tax-paid bottling houses, shall be entered on Form 52–D, "Monthly Record and Report of Tax-Paid Bottling House Operations." All applicable information indicated by the headings of the columns and lines, and the instructions printed on the form, will be entered thereon.

(b) *By winemakers and proprietors of bonded storerooms.* The receipt, bottling, packaging and disposition of wine bottled or packaged especially for export with benefit of drawback shall be entered by winemakers and proprietors of bonded storerooms on Form 52–D, "Monthly Record and Report of Tax-Paid Bottling House Operations." All applicable information called for by the headings of the columns and lines, and instructions printed on the form, shall be entered thereon. Transcripts of Form 52–D shall be forwarded to the district supervisor on or before the tenth day of the succeeding month.

ENTRY FOR DRAWBACK

§ 176.35 *Claim and entry*—(a) *Form 1582 or Form 1582–A.* Claim for allowance of drawback of internal revenue taxes on distilled spirits or wines manufactured or produced in the United States and bottled or packaged especially for export, and entry for the exportation of such spirits or wines with benefit of drawback, shall be prepared by the exporter on Form 1582, in quadruplicate, for distilled spirits, and Form 1582–A, in quadruplicate, for wines. All copies of Form 1582 or Form 1582–A, with Part 1 and Part 2, executed, shall be filed by the exporter with the district supervisor of the district wherein is located the export storage room in which the spirits or wines are stored at the time of exportation. All the information called for, as indicated by the headings of the columns, and the lines of the form, and the instructions printed on the form, shall be furnished.

* * * * *

§ 176.36 *Authority to release liquors.* If the district supervisor finds that the claim and entry are properly executed, and the spirits or wines described in the entry have, according to the records of his office, been bottled or packaged especially for export, he shall execute Part 3 of Form 1582, or Part 3 of Form 1582–A, as the case may be, authorizing

the Government officer to whom it is addressed to release the spirits or wines for shipment. (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a) (b) (c), (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a), (b), (c) (d)))

§ 176.37 *Inspection marks.* Before the spirits or wines are released, the following marks in plain, durable letters and figures must be stenciled or marked upon the case or package:

Drawback claimed by_____
(Name of claimant)
Supervisory District No. _____.
Inspected_____, 19____.
_____S. G.

The first two lines must be filled in by the exporter (or by the packer or bottler for him) and the last two by the Government officer. The name of the Government officer may be placed on the case or package by means of a rubber stamp. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a), (b), (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d)))

CERTIFICATE OF COLLECTOR OF CUSTOMS OF TAX ON IMPORTED SPIRITS

§ 176.39 *Certificate, Form 1583.* Where spirits or wines manufactured (rectified) in the United States from imported spirits or wines are bottled or packaged especially for export with benefit of drawback, the collector of customs at the port where the entry or withdrawal for consumption was made shall, upon application in writing by the rectifier, execute a certificate on Form 1583, in triplicate, showing that internal revenue tax has been collected on the imported spirits or wines described in the application. Two copies of the certificate shall be forwarded by the collector of customs to the district supervisor of the Alcohol Tax Unit district in which the spirits were rectified. The remaining copy shall be retained by the collector of customs. Such certificates shall be serially numbered, beginning with number 1 for each customs district. (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a) (b) (c), (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b), (c) (d)))

§ 176.41 *Certificate required before approval of claim.* The Commissioner will not approve a claim for drawback on spirits or wines manufactured from imported spirits or wines and bottled or packaged especially for export prior to the receipt of the certificate, Form 1583, of the collector of customs, showing that internal revenue tax has been collected on such imported spirits or wines. (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a), (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d)))

DRAWBACK BOND

§ 176.42 *Drawback bond.* (a) Except as provided by § 176.45, the exporter shall, either before or at the time of the execution of his first entry for drawback on Form 1582 or Form 1582–A, file with the district supervisor a drawback bond on Form 1581, in triplicate, for distilled spirits, or Form 1581–A, in triplicate, for wines, to insure bona fide exportation of the spirits or wines on which drawback is claimed, and the procurement and submission of the required evidence of the landing of such spirits or wines at the designated foreign port, or the use thereof as supplies on vessels or aircraft in accordance with § 176.11 (b) or the loss of such spirits or wines after shipment outside the jurisdiction of the United States, without fault or negligence on the part of the exporter. The bond must be furnished with acceptable corporate surety or individual sureties or secured by the deposit of proper collateral. Where bond is furnished on Form 1581, revised May 1942, or Form 1581–A, revised January 1942, or on prior issues of such forms, to cover spirits or wines in packages, consent of surety must be furnished to extend the conditions of the bond to cover such spirits or wines in packages.

* * * * *

§ 176.46 *Bond pre-requisite to claim allowance.* No claim for allowance of drawback on distilled spirits or wines bottled or packaged especially for export, and exported, will be approved until the claimant has furnished the prescribed bond, except as provided by § 176.45. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d)))

SHIPMENT OR DELIVERY FOR EXPORT

§ 176.48 *Consignment.* Every case or package of distilled spirits or wines, intended for export with benefit of drawback shall be consigned to the collector of customs at the port of exportation, except that when the shipment is to a contiguous foreign territory it shall be consigned to the foreign consignee at destination, but stenciled or marked in care of the collector of customs or deputy collector of customs at the port of export. In the case of shipment to contiguous foreign territory, the carrier shall deliver the spirits or wines for customs inspection at the port of export before transporting the same to the foreign destination. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

§ 176.49 *Direct delivery for customs inspection*—(a) *Bill of lading.* If the export storage room where the distilled spirits or wines are stored is located at the port of exportation, the exporter shall deliver the shipment directly for customs inspection and supervision of lading. The drawback entry must be filed with the collector of customs at least six hours prior to the lading of the spirits or wines in order to allow opportunity for customs inspection. The exporter must file a copy of the export bill of lading with the district supervisor. The bill of lading must show the exporter as the shipper, the serial numbers of the cases or packages, as the case may be, and the quantity shipped in wine gallons.

* * * * *

CUSTOMS PROCEDURE

§ 176.52 *Customs inspection.* (a) The collector of customs, upon receipt of the drawback entry on Form 1582, or Form 1582–A, shall cause the date and hour of receipt to be stamped on each copy of the form and shall execute Part 5, the order for inspection and lading. The customs inspector to whom the order is delivered shall inspect the export containers of spirits or wines. He shall examine the contents of such containers as are found broken, damaged, or tampered with, or which he is led to suspect do not contain the spirits or wines originally packed therein, and shall make a special report thereon. The customs inspector shall note in his report any deficiency in quantity or discrepancy between the merchandise inspected and that described in the entry. After having complied with the order of inspection, and after the spirits or wines have been duly laden on board the exporting vessel, aircraft, car, or other conveyance, the customs inspector shall complete and sign Part 6, his certificate of inspection and lading on each copy of the form. If the customs inspector has reason to believe that the merchandise is not the same as that originally packed in the containers or discovers any other evidence of fraud, he shall detain the merchandise and notify the collector of customs who shall inform the district supervisor of the Alcohol Tax Unit district in which the port is located. The district supervisor will take appropriate action and immediately report the facts to the Commissioner.

(1) *Bulk containers to be gauged.* Packages of distilled spirits must be carefully gauged by a customs gauger and a detailed report of such gauge shall be made on Form 696, in duplicate, modified to show the name of the packer in lieu of the name of the distiller. In preparing the report, the customs gauger shall make entry thereon as to each package in accordance with the column headings. A copy of the gauger's report of gauge shall be attached to each copy of the entry for exportation, Form 1582, and delivered to the collector of customs.

* * * * *

§ 176.53 *Certification of non-inspection.* Spirits or wines in casks, barrels, drums, or other approved containers containing not less than 5 wine gallons must be gauged and inspected by customs officers. In the case of bottled distilled spirits and wines, whenever the inspecting officer is unable to certify to the actual inspection and lading of the spirits or wines, he shall make his return on Part 7 of Form 1582, or Part 7 of Form 1582–A, stating therein the reasons why the spirits or wines were not inspected by him and laden under his supervision. The officer shall, after the vessel, aircraft, car, or other conveyance has cleared, examine the records of the delivering and exporting steamship, or transport lines for the purpose of verifying the particulars stated in the drawback entry, and will make his certification accordingly. If the records examined show that cases of similar description were laden on the exporting vessel, aircraft, car, or other conveyance

for the designated port, the officer shall set forth in his certification, in addition to other data indicated by the form, the date and hour of lading. (Sec. 3179 (b) as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V, 1309 (a) (b) (c) (d)))

§ 176.56 *Allowance in cases of non-inspection.* Where spirits or wines in casks, barrels, drums or other approved containers containing not less than 5 wine gallons are not inspected by a customs officer at the port of export and loaded on the exporting vessel, aircraft, railroad car, motor truck, or other conveyance under his supervision, a claim for drawback thereon shall not be allowed. Where bottled spirits or wines were not inspected by a customs officer at the port of export, and loaded on the exporting vessel, aircraft, railroad car, motor truck, or other conveyance under his supervision, the claim for drawback may, nevertheless, be allowed, provided that the law and regulations were complied with in other respects and the exportation without customs inspection and supervision of lading was not the fault of the exporter or carrier or the agent of either. (Sec. 3179 (b), as amended, I. R. C., and sec. 309 (a) (b) (c) (d) of the Tariff Act of 1930, as amended (19 U. S. C., Sup. V 1309 (a) (b) (c) (d)))

PROOF OF EXPORTATION, ETC.

§ 176.58 *Landing certificate.* Each claimant for drawback on distilled spirits or wines exported must agree in the required bond that he will procure and furnish within six months (or such additional extensions of time as may be granted by the district supervisor or Commissioner), evidence satisfactory to the district supervisor or Commissioner that such distilled spirits or wines have been landed at the designated foreign port or that after shipment the same were lost on land or at sea, outside the juridiction of the United States, without fault or negligence on the part of the exporter. Proof of the foreign landing of the spirits or wines shall, in every case, consist of a duly executed landing certificate except as otherwise provided herein. The landing certificate must give such description of the spirits or wines as will readily identify the shipment to which it relates. It will be in substantially the following form:

Port of _____
_____, 19___.

I, _____, of _____, do hereby certify that the merchandise hereinafter described, shipped by _____, on or about the _____ day of _____, 19__, has been landed at this port from on board the _____, on or about the _____ day of _____, 19___.

Marks and numbers	Number of cases or packages	Name of article	Quantity	
			Wine gallons	Proof gallons[1]

[1] In case of wines, show taxable grade in lieu of proof gallons.

[SEAL] _____
Subscribed and sworn to before me this _____ day of _____, 19___.
[SEAL] _____
(Name)
_____
(Title)

(Secs. 2887, 3170, 3176, 3179 (b) 3351 (c) 3361 (c) 3791 and 4041, I. R. C. (U. S. C., title 26, 2887, 3170, 3176, 3179 (b) 3351 (c) 3361 (c) 3791 and 4041) and secs. 309 (a) (b) (c) (d) and 313 (d) (i) of the Tariff Act of 1930, as amended) (19 U. S. C., Sup. V 1309 (a) (b) (c) (d) and 1313 (d) (i)))

4. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

[F. R. Doc. 47-9133; Filed, Oct. 9, 1947; 8:49 a. m.]

[26 CFR, Part 189]

BOTTLING OF TAX-PAID SPIRITS

NOTICE OF PROPOSED RULE MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority of sections 2803, 3871, 3176 and 3179 (b) of the Internal Revenue Code (U. S. C., Title 26, sections 2803, 3871, 3176 and 3179 (b)).

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

1. The act of July 14, 1947 (Pub. Law 135, 80th Cong.) amends subsection (b) of section 3179 of the Internal Revenue Code to read as follows:

(b) *Drawback.* Upon the exportation of distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, and which are contained in any cask or package or in bottles packed in cases or other containers, there shall be allowed, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, a drawback equal in amount to the tax found to have been paid on such distilled spirits and wines: *Provided,* That such distilled spirits and wines have been packaged or bottled especially for export, under regulations prescribed by the Commissioner, with the approval of the Secretary. The Commissioner, with the approval of the Secretary, is authorized to prescribe regulations governing the determination and payment of drawback of internal-revenue tax on distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as shall be deemed necessary.

2. Pursuant to the foregoing provision of law and sections 2803, 3871 and 3176 of the Internal Revenue Code (U. S. C., Title 26, 2803, 3871 and 3176) Regulations 11 (26 CFR, Part 189) approved May 20, 1940, are hereby amended by adding § 189.18a and amending §§ 189.11, 189.128 and 189.129 as follows:

§ 189.11 *Export storage room.* If the proprietor intends to bottle or package distilled spirits or wines for export with benefit of drawback, a separate room for the storage of such products exclusively must be provided and a sign must be placed over the entrance door bearing the words "Export Storage Room." The room must be constructed of substantial, solid materials: *Provided,* That the partitions separating such room from other parts of the tax-paid bottling house may be constructed of expanded metal or woven wire of not less than 9-gauge nor more than 2-inch mesh, extending from the floor to the ceiling or roof. All windows, doors, or other openings must be so constructed that they may be securely locked or fastened from the inside, except the entrance door, which must be so constructed that it may be securely locked from the outside of the room with a Government seal lock. (Secs. 2803, 3871, 3176, 3179 (b), as amended, I. R. C.)

§ 189.18a *Package filling tanks.* Where distilled spirits or wines are to be packaged especially for export with benefit of drawback, tanks suitable for the purpose, and constructed and equipped in accordance with the provisions and requirements of § 189.18 governing the construction and equipment of bottling tanks shall be provided by the bottler. (Secs. 2303, 3871, 3176, 3179 (b) as amended, I. R. C.)

BOTTLING AND PACKAGING OF DISTILLED SPIRITS AND WINES ESPECIALLY FOR EXPORT WITH BENEFIT OF DRAWBACK

§ 189.128 *General.* Under the law, distilled spirits and wines manufactured or produced in the United States and on which the internal revenue tax has been paid may be bottled or packaged especially for export at a tax-paid bottling house, and upon the exportation of the spirits or wines there may be allowed a drawback equal in amount to the tax found to have been paid thereon. (Secs. 2303, 3871, 3176, 3179 (b) as amended, I. R. C.)

§ 189.129 *Procedure.* The bottling and packaging of distilled spirits and wines especially for export at a tax-paid bottling house, the storage of the spirits and wines pending exportation, the exportation of the spirits or wines, including the lading thereof on vessels for use as ship's supplies and on aircraft for use as aircraft's supplies, and the allowance of drawback thereon, shall be in accordance with the provisions of Regulations 28 (26 CFR, Part 176) (Secs. 2803, 3871, 3176, 3179 (b), as amended, I. R. C.)

(Secs. 2803, 3176 and 3179 (b) as amended, I. R. C. (U. S. C., Title 26, 2803, 3871, 3176 and 3179 (b)))

3. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

[F. R. Doc. 47-9131; Filed, Oct. 9, 1947; 8:48 a. m.]

[26 CFR, Part 190]

RECTIFICATION OF SPIRITS AND WINES

NOTICE OF PROPOSED RULE MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within the period of 30 days from the date of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority of sections 2801 (e) (1) 3176, and 3179 (b) of the Internal Revenue Code (U. S. C., Title 26, secs. 2801 (e) (1), 3176 and 3179 (b))

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

1. The act of July 14, 1947 (Public Law 185, 80th Congress) amends subsection (b) of section 3179 of the Internal Revenue Code to read as follows:

(b) *Drawback.* Upon the exportation of distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, and which are contained in any cask or package or in bottles packed in cases or other containers, there shall be allowed, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, a drawback equal in amount to the tax found to have been paid on such distilled spirits and wines: *Provided,* That such distilled spirits and wines have been packaged or bottled especially for export, under regulations prescribed by the Commissioner, with the approval of the Secretary. The Commissioner, with the approval of the Secretary, is authorized to prescribe regulations governing the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as shall be deemed necessary.

2. Pursuant to the foregoing provision of law and sections 2801 (e) (1) and 3176 of the Internal Revenue Code (U. S. C., Title 26, 2801 (e) (1) and 3176) Regulations 15, approved May 20, 1940 (26 CFR, Part 190) are hereby amended in these respects:

(a) Sections 190.40a and 190.294a are added;

(b) Sections 190.26, 190.292, 190.337 190.338, and 190.339 are amended as follows:

§ 190.26 *Export storage room.* If the rectifier intends to bottle or package distilled spirits or wines for export, a separate room for the storage of such products exclusively must be provided and designated "Export Storage Room." The room must be constructed of substantial, solid materials: *Provided,* That the partitions separating such room from other parts of the rectifying plant may be constructed of expanded metal or woven wire of not less than 9-gauge nor more than 2-inch mesh, extending from the floor to the ceiling or roof. All windows, doors, or other openings must be so constructed that they may be securely locked or fastened from the inside, except the entrance door, which must be so constructed that it may be securely locked from the outside of the room with a Government seal lock. (Secs. 2801 (e) (1) 3176, 3179 (b) as amended, I. R. C.)

§ 190.40a *Package filling tanks.* Where distilled spirits or wines are to be packaged especially for export with benefit of drawback, tanks suitable for the purpose, and constructed and equipped in accordance with the provisions and requirements of § 190.39 governing the construction and equipment of bottling tanks, shall be provided by the rectifier. (Secs. 2801 (e) (1) 2829, 3176, 3179 (b) as amended, I. R. C.)

§ 190.292 *Remittance of tax for packages.* Except as provided in § 190.294a, for the tax-payment of spirits and wines in packages filled especially for export with benefit of drawback, if the rectified spirits are to be tax-paid in packages, the rectifier shall, upon receipt of Form 237, duly approved, forward all copies to the collector with remittance for the tax due on the spirits. The remittance shall be in the form set forth in § 190.361c. (Secs. 2801 (e) (1) 3176, 3179 (b) as amended, I. R. C.)

§ 190.294a *Spirits packaged especially for export with benefit of drawback.* If Form 237 covers spirits, wines, cordials, or liqueurs drawn into barrels, casks, drums, or other approved containers, containing not less than 5 wine gallons, especially for export with benefit of drawback, the rectifier shall, upon receipt of Form 237, duly approved, cancel the necessary stamps in the exact amount of the tax due in the manner provided by § 190.361d. He shall then attach the stamps to Form 237 and return all copies to the Government officer. The Government officer shall complete the cancellation of the stamps as provided by § 190.361d and shall execute the certificate on Form 237 evidencing the receipt and cancellation of stamps for the amount of taxes due. He shall then return all copies of the Form 237 and the cancelled stamps to the rectifier who shall stencil the words "rectification tax paid" on each package, attach the cancelled stamps to the original of the Form 237 by means of staple, eyelet or similar device and forward the original and the additional copy of the Form 237 to the district supervisor. (Secs. 2801 (e) (1) 3176, 3179 (b) as amended, I. R. C.)

§ 190.337 *General.* Under the law (a) any distilled spirits and wines on which the internal revenue tax has been paid may be rectified and bottled or packaged especially for export at a rectifying plant or rectified at a rectifying plant for bottling or packaging especially for export by a qualified bottler or packer other than the rectifier, and (b) unrectified domestic distilled spirits and wines on which the internal revenue tax has been paid may be bottled or packaged especially for export in a rectifying plant. (Secs. 2801 (e) (1), 3176, 3179 (b) as amended, I. R. C.)

§ 190.338 *Extent of drawback allowance.* Upon the exportation of distilled spirits and wines so manufactured or produced and tax-paid in the United States and bottled or packaged especially for export, there may be allowed a drawback equal in amount to the tax found to have been paid thereon. (Secs. 2801 (e) (1) 3176, 3179 (b), as amended, I. R. C.)

§ 190.339 *Procedure.* The rectification, bottling, and packaging of distilled spirits and wines especially for export, the rectification of distilled spirits and wines to be bottled or packaged especially for export by a qualified bottler or packer other than the rectifier, the bottling and packaging of unrectified domestic distilled spirits and wines especially for export, the storage pending exportation of distilled spirits and wines bottled or packaged especially for export, the exportation of the spirits or wines, including the lading thereof on vessels for use as ship's supplies and on aircraft for use as aircraft's supplies, and the allowance of drawback thereon shall be in accordance with the provisions of Regulations 28 (26 CFR, Part 176) (Secs. 2801 (e) (1), 3176, 3179 (b) as amended, I. R. C.)

(Secs. 2801 (e) (1) 3176 and 3179 (b) as amended, I. R. C. (U. S. C., Title 26, secs. 2801 (e) (1) 3176 and 3179 (b)))

3. This Treasury decision shall be effective on the 31st day after the date of its publication in the FEDERAL REGISTER.

[F. R. Doc. 47-9132; Filed, Oct. 9, 1947; 8:49 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[P. & S. Docket No. 5]

PEORIA UNION STOCK YARDS CO.

NOTICE OF PETITION FOR MODIFICATION OF TEMPORARY RATES

Pursuant to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U. S. C. 181 et seq.) rates were prescribed for the respondent by an order dated June 30, 1924. Various modifications of the rates thus prescribed have been ordered from time to time. At present, temporary rates and charges are in effect at respondent's stockyard which are due to expire on May 31, 1948, pursuant to an order dated May 12, 1947 (6 A. D. 425)

By petition filed on September 26, 1947, the respondent has requested permission to assess and charge certain increased rates for yardage until and including May 31, 1948, as follows:

SECTION 1—YARDAGE

ITEM 1

Yardage charges, including the use of facilities, handling, weighing and privilege of the market, will be collected on all livestock (or deadstock) sold through these yards or resold by regular selling agencies at the following rate in cents per head:

	Received by railroad	Received other than by railroad
Cattle	55	55
Calves (300 lbs. and under)	28	28
Hogs	18	18
Sheep and goats	13	13
Horses and mules	35	35

ITEM 2

Charges will be collected on all livestock resold on the market (except as specified in Items 1 and 3 of this Section) at the following rate in cents per head:

Cattle	28
Calves	14
Hogs	9
Sheep	7

ITEM 4

Charges will be collected on all livestock consigned to local packers and others at the following rate in cents per head:

Cattle	28
Calves	14
Hogs	9
Sheep	7

The corresponding yardage charges which are now in effect at respondent's stockyard are as follows, omitting the preliminary statement under each item which is identical to that set out above:

SECTION 1—YARDAGE

ITEM 1

	Received by railroad	Received other than by railroad
Cattle	35	35
Calves (300 lbs. and under)	20	20
Hogs	15	15
Sheep and goats	10	10
Horses and mules	35	35

ITEM 2

Cattle	18
Calves	10
Hogs	8
Sheep	5

ITEM 4

Cattle	18
Calves	10
Hogs	8
Sheep	5

The respondent seeks no modification of other rates and charges.

It appears that public notice should be given of the filing of such petition in order that all interested persons may have an opportunity to be heard in the matter.

Now, therefore, notice is hereby given to the public and to all interested persons of the filing of such petition for modification. All interested persons who desire to be heard upon the matters requested in said petition shall notify the hearing clerk, United States Department of Agriculture, Washington 25, D. C., within 15 days from the date of the publication of this notice.

A copy hereof shall be served upon the respondent by registered mail or in person.

Done at Washington, D. C., this 3d day of October 1947.

[SEAL] H. E. REED,
Director, Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 47-9126; Filed, Oct. 9, 1947; 8:47 a. m.]

[7 CFR, Part 933]

ORANGES, GRAPEFRUIT AND TANGERINES GROWN IN FLORIDA

GENERAL NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO APPROVAL OF BUDGET OF EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1947–1948 FISCAL PERIOD

Consideration is being given to the following proposals submitted by the Growers Administrative Committee, established under Marketing Agreement No. 84, as amended, and Order No. 33, as amended (7 CFR, Cum. Supp. 933.1 et seq., 11 F. R. 9471), regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, as the agency to administer the terms and provisions thereof: (1) That the Secretary of Agriculture find that expenses not to exceed $90,000 will be necessarily incurred during the fiscal period August 1, 1947 to July 31, 1948, for the maintenance and functioning of the committees established under the aforesaid amended marketing agreement and order, and (2) that the Secretary of Agriculture fix, as each handler's share of such expenses, the rate of assessment, which each handler shall pay during the aforesaid fiscal period in accordance with the aforesaid amended marketing agreement and order, at $0.0025 per standard packed box of fruit (as such box is defined in the standards for containers for citrus fruit established by the Florida Citrus Commission pursuant to section 3 of Chapter 20449, Laws of Florida, Acts of 1941 (Florida Laws Annotated § 595.09)).

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same with the Hearing Clerk, Office of the Solicitor, Room 1844, South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the 10th day after the publication of this notice in the FEDERAL REGISTER. All documents should be filed in quadruplicate.

(48 Stat. 31, 670, 675; 49 Stat. 750; 50 Stat. 246; 7 U. S. C. 601 et seq., 7 CFR, Cum. Supp., 933.1 et seq., 11 F. R. 9471)

Issued this 6th day of October 1947.

[SEAL] CLINTON P. ANDERSON,
Secretary of Agriculture.

[F. R. Doc. 47-9125; Filed, Oct. 9, 1947; 8:47 a. m.]

CIVIL AERONAUTICS BOARD

[14 CFR, Part 292]

FURTHER EXEMPTION OF IRREGULAR ALASKAN AIR CARRIERS

NOTICE OF PROPOSED REVISION OF REGULATIONS

OCTOBER 7, 1947.

The Civil Aeronautics Board has under consideration a further revision of § 292.2 of the Economic Regulations relating to exemption of air carriers operating irrregular services of a limited nature and extent within the Territory of Alaska. The revision is proposed under authority of sections 205 (a) and 1001 and Title IV of the Civil Aeronautics Act of 1938, as amended (52 Stat. 984, 1017, 937–1005, as amended, 49 U. S. C. 425, 641, 481–496). This revision is part of the further changes in the pattern of regulation for air transportation in the Territory of Alaska which the Board, in Economic Regulations Draft Release No. 17, dated July 7, 1947, said it intended to consider.

Comments should be submitted in writing to the Board on or before November 7, 1947, and may be sent directly to the Secretary, Civil Aeronautics Board, Washington 25, D. C., in which event a copy thereof should be sent to the Alaska Office of the Board, P. O. Box 2219, Anchorage, Alaska, or may be transmitted in duplicate to the Alaska Office, which will forward one copy to the Secretary of the Board.

Explanatory statement of revision of § 292.2 of the Economic Regulations. Title IV of the Civil Aeronautics Act contains provisions pertaining to the economic regulation of air carriers.[1] Section 401 of this title provides that no air carrier may engage in air transportation[2] unless there is in effect a certificate

[1] "Air carrier" means any citizen of the United States who undertakes, whether directly or indirectly or by lease or any other arrangement, to engage in air transportation.

[2] "Air transportation" means interstate, overseas or foreign air transportation or the transportation of mail by aircraft. "Interstate air transportation," "overseas air transportation" and "foreign air transportation", respectively, mean the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft, in commerce between respectively—

(a) A place in any State of the United States, or the District of Columbia, and a place in any other State of the United States, or the District of Columbia; or between places in the same State of the United States through the air space over any place outside thereof; or between places in the same Territory or possession of the United States, or the District of Columbia;

(b) A place in any State of the United States, or the District of Columbia,—and any place in a Territory or possession of the United States; or between a place in a Territory or possession of the United States; and a place in any other Territory or possession of the United States; and

(c) A place in the United States and any place outside thereof, whether such commerce moves wholly by aircraft or partly by aircraft and partly by other forms of transportation.

It will be noted from the foregoing definition that one of the attributes of an air

of public convenience and necessity issued by the Board authorizing it so to engage. Other sections of this title provide certain additional requirements for air carriers, such as, for example, the filing of tariffs setting out rates and charges (section 403) and the filing of reports (section 407)

Section 416, however, permits the Board under certain circumstances to exempt from most of the requirements of Title IV certain air carriers or groups of air carriers. Under this prerogative the Board has in the past temporarily exempted certain carriers in the Territory of Alaska, who began operating during war years, from section 401 of the act until the Board could make orderly disposition of the necessity in the public interest for services of the types being performed by those carriers. During the pendency of the investigation instituted by the Board for that purpose, a number of other carriers began, and have continued, to operate. The Board believes that by the attached regulations; another revision of the regulation recently circulated for comment (see Economic Regulations Draft Release No. 17 dated July 7, 1947), and a related program of enforcement, the purposes of that investigation will be accomplished.

The Board recognizes the dependence of the Territory upon air transportation and its great need for a variety of specialized air services. A ready avenue for inauguration and performance of these specialized services is undoubtedly essential to satisfy immediate public demand and to provide for full development of these services in Alaska. On the other hand, stabilization and further development of the whole Alaskan air transportation system can, in the Board's opinion, be accomplished only through proper observance of the legal and orderly processes laid down in the act.

The Board is, therefore, requiring that all new services within the Territory be performed only under a proper authorization issued by the Board pursuant to the substantive and procedural provisions of Title IV of the act, except that irregular services of the nature and extent contemplated by the attached regulation will be permitted upon compliance, and in conformity, with that regulation. The types of service which the Board will regard as being in conformity with the regulation are flights made for such purposes as sport fishing, hunting, trappers, prospectors, fur buyers, mine supply, salesmen, local cannery service, sightseeing, and other flights to uninhabited places, or places usually not receiving air service by a carrier holding a certificate of public convenience and necessity. The non-certificated irregular air carriers will not be precluded entirely from operating between points receiving scheduled service from the certificated carriers, but they will be limited to casual, occasional and infrequent flights between such points. No general measure of such flights will be set; the frequency or regularity of all such flights will be determined in relation to the general conditions in the area or between the points at the time such flights are made. Provision will be made for such reporting by these carriers that the nature and scope of their operations can be constantly policed by the Board's Alaska Office.

No limitation is being imposed upon the area within which such carriers may operate. No such limitation seems feasible. It is anticipated that each carrier will operate from a fixed base, and the requirement that each must be an owner-pilot personally operating aircraft of limited number and size will undoubtedly result economically in most of the service being actually performed within a limited area. The intrinsically unattractive features of small-plane operation from the passenger standpoint—safety, comfort, and comparative high cost—will undoubtedly tend to limit the preponderant portion of the operations of the proposed exempted carriers to specialized services within comparatively small areas. This will be especially true where regular long-distance transportation is available in large multi-engine aircraft operated on a regular-fare basis by certificated carriers.

Some of the carriers now operating under authority of the outstanding exemptions would be required to discontinue or make material changes in their operations if these exemptions were to be revoked at this time. The exemptions will, therefore, remain in effect until the individual applications of those carriers for certificates of convenience and necessity have been disposed of. Some of these carriers are operating in a manner not authorized by the exemption, and immediate steps will be taken to terminate any operations of those carriers in excess of those permitted under existing authority.

If and when the attached regulation is adopted by the Board, any non-certificated carrier, whether or not operating under an outstanding exemption order of the Board, may file an application for a Letter of Registration (Alaska) If such carrier is a citizen of the United States and meets the requirements of the regulation, such Letter of Registration (Alaska) will be issued promptly. The application for a certificate of public convenience and necessity of any carrier to whom a Letter of Registration (Alaska) is issued will thereupon be dismissed unless at the time of filing the application for Letter of Registration (Alaska) the carrier specifically requests hearing and decision on its application for a certificate of public convenience and necessity.

The Board intends to reopen for further hearing and decision the applications for certificates of public convenience and necessity of carriers who continue to operate under authority of the presently outstanding exemption orders. Any other persons are, of course, free to file applications for certificates, and such applications will be disposed of as promptly as possible after the pending applications have been acted upon.

Two points are emphasized: First, the pendency of an application confers no right to perform the service for which a certificate is sought, and the Board will take prompt and positive action against any carrier operating without holding an authorization from the Board. Second, the Board will consider any application for a specific exemption order to engage in new service, or in service of a broader scope than that authorized in outstanding exemption orders or in that here proposed, only in accordance with the procedure required for certificates of public convenience and necessity, i. e., after notice and hearing.

All carriers, whether certificated or non-certificated, will be required to file tariffs and reports of their operations in a form appropriate to the type of operation being conducted. All carriers will be required to observe the same safety regulations in respect of the same type of operation. Drafts of safety regulations deemed appropriate to conditions in the Territory and to the various types of air operations being conducted there will be circulated to the industry for comment within the near future.

Proposed revision of § 292.2 *Alaskan Air Carriers* of the Economic Regulations. Add the following as subparagraph (3) to paragraph (c) *Temporary exemption of non-certificated air carriers* as set forth in Economic Regulations Draft Release No. 17 dated July 7, 1947·

(3) Effective 30 days after the date hereof, and until the Board shall adopt further rules, regulations or orders, any person seeking to engage exclusively in irregular air transportation wholly within the Territory of Alaska shall be exempt from section 401 (a) of the act in so far as the enforcement thereof would prevent any such person from engaging in air transportation of persons and property of the nature and extent herein authorized without a certificate of public convenience and necessity· *Provided,* That the exemption hereby granted shall extend only to a person who is a properly qualified pilot and who owns and personally operates aircraft of not more than 8 places in the aggregate of which no single aircraft is larger than 5 places: *Provided further* That such person shall first file with the Board a proper application for, and shall hold a currently effective "Letter of Registration (Alaska)," except that any person engaged in service on the effective date hereof and filing such application within 30 days after such effective date may continue to engage in services of the nature and extent herein authorized until such Letter of Registration (Alaska) has been issued or he has been notified that no such letter will be issued: *And provided further,* That no such person may operate between points on any route named in schedules filed with the Board under section 405 (e) of

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carrier is that it be a common carrier. A test of common carriage frequently applied is whether the carrier holds itself out to the public as engaged in the business of carrying persons or property and that it will, so long as it has room, carry persons or property coming or brought to it for that purpose. Common carriage would not ordinarily include flight instruction, personal pleasure flying, flying in connection with one's own business, etc. A further description of the term is contained in the explanatory statement attached to Part 42 of the Civil Air Regulations.

the act except on casual, occasional and infrequent trips.

[SEAL] M. C. MULLIGAN, *Secretary.*

[F. R. Doc. 47-9134; Filed, Oct. 9, 1947; 8:46 a. m.]

FEDERAL SECURITY AGENCY

Food and Drug Administration

[21 CFR, Part 36]

[Docket No. FDC 50]

CANNED OYSTERS

DEFINITIONS AND STANDARDS OF IDENTITY; STANDARDS OF FILL OF CONTAINER

It is proposed that, by virtue of the authority vested in the Federal Security Administrator by the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055; 21 U. S. C. 341, 371) on the basis of the evidence received at the hearing duly held pursuant to notice issued on June 6, 1947 (12 F. R. 3726) and upon consideration of proposed findings of fact filed herein by the Gulf-South Atlantic Oyster Canners Association, which are adopted in part and rejected in part as is apparent from the detailed findings made below, the following tentative order be made:

IDENTITY

Findings of fact.[1] 1. Oysters are canned commercially in the United States on the Atlantic, Gulf, and Pacific Coasts. The oysters on the Atlantic and Gulf Coasts are of the species Ostrea virginica. (They are often referred to as "Eastern Oysters".) The common name of oysters of this species when canned, is "Oysters" or "Cove Oysters" Two species of oysters, Ostrea gigas and Ostrea lurida, are grown on the Pacific Coast. Oysters of the latter species, known as Olympia oysters, are not now commercially canned, but this is due to economic reasons, and oysters of this species are suitable for canning. Oysters of the species Ostrea gigas, commonly known as Pacific oysters, are canned in considerable quantities. (R. 33, 35, 95, 156–158, 161, 178–179, 523–525, 535, 536–537)

2. Pacific oysters are much larger, are somewhat more tender, and easier to break or tear, than Eastern oysters. The methods used for canning Eastern oysters and Pacific oysters are essentially the same. They are described in finding 3. (R. 8, 31, 52, 95, 158, 162, 174, 523–524, 526)

3. Oysters in the shell are steamed until the shell opens. The partially cooked oysters are removed from the shells, washed to remove extraneous matter, such as sand, pieces of shell, etc., and packed into containers. Water is added to fill the container, leaving only a small head space. (Such water is known as a "packing medium".) Salt may be added for seasoning. The containers are sealed and processed by heat to prevent spoilage. (R. 31–32, 48–49, 97–101, 109–111, 116–117, 134, 517–519)

4. Eastern oysters are commonly canned whole. Sometimes the large sizes of Pacific oysters are cut into two or more pieces before canning, or are sliced, and sometimes broken and torn oysters are segregated and canned together. Some oysters are broken or torn in removing them from the shells and some in washing and in packing into containers. During processing and subsequent handling of the canned product small pieces of the outer surface of the oysters often break off. When oysters are canned as they come from the shuckers without cutting or slicing, the name of the oyster ingredient is "Oysters", without any modifying term. When oysters are cut into two or more pieces, or when torn or broken oysters are segregated and canned, the oyster ingredient is known as "Pieces of Oysters" When oysters are sliced, the oyster ingredient is known as "Sliced Oysters" The designation "Diced" has sometimes been used but is not appropriate since the oyster does not lend itself to cutting into small cubes, and if so cut the pieces lose their shape in processing and subsequent handling. (R. 34–35, 41, 49–52, 69–71, 88–89, 110, 185, 269–270, 288, 417–419, 459–470, 477–486)

5. Canned Eastern oysters and canned Pacific oysters are sold in the same trade channels. Generally speaking, consumers distinguish between them on the basis of the difference in size. The canned Eastern oysters being smaller are generally used for oyster stews. The Pacific oysters being larger may be used for frying or for stews. (R. 17–21, 67, 75, 95, 158, 417–418, 445–446, 519, 524, 526, 532, 534–537, 624; Ex. 4, 5, 6, 7)

6. Canned oysters consist of cooked oysters in a watery liquid. The proportion of oysters to liquid depends largely on the quantity of oysters placed in the container before the packing medium was added. The watery liquid surrounding the oysters contains salt and soluble material extracted from the oysters. It has an oyster taste and is useful in making oyster stews, but is usually discarded if oysters are used for frying, although it may be used for some other purpose. This liquid is less valuable than the oysters. (R. 31–32, 42, 52 (a) 76, 167–170, 447–447 (a), 454, 513, 525–526, 535–536, 624, 625)

7. Occasionally oysters for canning are not steamed prior to removal from the shell. Such raw oysters, after washing, are packed directly into the container with or without packing medium, and the container sealed and processed. Even if no packing medium is added to the raw oysters, a watery liquid separates from them during processing. Raw oysters may be blanched and packed into containers with the liquid in which they are blanched as a packing medium, or with additional water and salt. Sometimes the liquid draining from cleaned shell oysters during the presteaming is collected and used, with or without added water and salt, as a packing medium. (R. 31–32, 39–42, 45, 49, 52–54, 55–57, 76, 78, 123–125, 134, 165–166, 168–169, 180–181, 453–454, 457, 513, 519, 523–524, 532, 553–555)

8. The flavor of canned oysters is influenced by the canning procedure used, but the final canned product in all cases is a mixture of cooked oysters and watery liquid. The processes described in finding 7 are suitable unless the product contains too much liquid and too little oysters. The quantity of oysters in a container, however, is more properly related to the fill of container than to identity. (R. 31–32, 42, 45–46, 76, 124–125, 453–457, 552–555)

Conclusions. Based on the foregoing findings of fact it is concluded that it will promote honesty and fair dealing in the interest of consumers to adopt a definition and standard of identity for canned oysters as follows:

§ 36.5 *Canned oysters; identity; label statement of optional ingredients.* (a) Canned oysters is the food prepared from one or any mixture of two or more of the optional forms of oyster ingredients specified in paragraph (b) of this section, and a packing medium of water, or the watery liquid draining from oysters before or during processing, or a mixture of such liquid and water. The food may be seasoned with salt. It is sealed in containers and so processed by heat as to prevent spoilage.

(b) The optional forms of oyster ingredients referred to in paragraph (a) of this section and described in subparagraphs (1) (2), and (3) of this paragraph are prepared by removing oysters from their shells and washing. They may be blanched. The oysters may be steamed while in the shell.

(1) Whole oysters with such broken pieces of oysters as normally occur in removing oysters from their shells, washing, and packing.

(2) Pieces of oysters obtained by cutting oysters into pieces or by segregating pieces of oysters broken in shucking, washing, or packing whole oysters, or by both such cutting and segregation.

(3) Sliced oysters obtained by slicing whole oysters.

(c) (1) When the optional form described in paragraph (b) (1) of this section is used, the name of the food is "Oysters" or "Cove Oysters" if of the species Ostrea virginica; "Pacific Oysters" if of the species Ostrea gigas; or "Olympia Oysters" if of the species Ostrea lurida.

(2) When the optional form described in paragraph (b) (2) of this section is used, the name of the food is "Pieces of ——————" the blank being filled in with the name "Oysters" or "Cove Oysters" if of the species Ostrea virginica; "Pacific Oysters", if of the species Ostrea gigas; or "Olympia Oysters" if of the species Ostrea lurida.

(3) When the optional form described in paragraph (b) (3) of this section is used, the name of the food is "Sliced ——————" the blank being filled in with the words "Oysters" or "Cove Oysters" if of the species Ostrea virginica; "Pacific Oysters" if of the species Ostrea gigas; or "Olympia Oysters" if of the species Ostrea lurida.

(4) In case a mixture of the optional forms described in subparagraphs (1)

[1] The citations following each finding of fact refer to the pages of the transcript of the testimony and the exhibits received in evidence at the hearing, which are the basis for these findings.

(2), and (3) of this paragraph is used, the name is a combination of the names of the optional oyster ingredients used, arranged in order of predominance by weight of the optional forms.

FILL OF CONTAINER

Findings of fact. 1. Conservation Order M-81 of the War Production Board, effective in 1942, required, among other things, that canned oysters be packed in cans of certain sizes, the smallest of which was the No. 1 picnic can, $2^{11}/_{16}$ inches in diameter and 4 inches high. It also required that the No. 1 picnic can of oysters be filled to yield a cut-out weight of not less than 7½ ounces. These requirements with respect to canned oysters remained in effect until 1946. (R. 67, 94, 204, 443, 448, 544, 550)

2. The standard of fill of container for canned oysters issued under authority of the Federal Food, Drug, and Cosmetic Act, effective February 23, 1945 (9 F. R. 14008) requires a drain weight of oysters of not less than 68 percent of the water capacity of the container (7½ ounces for the No. 1 picnic can) where the average drained weight per oyster is less than ½ ounce. There is no requirement in such standard for drained weight in case the canned oysters are of larger size. (R. 16, 36–38, 65–66, 94; Ex. 3)

3. Canned oysters packed on the Atlantic and Gulf Coasts are generally of such size as to be subject to the requirements of the standard of fill of container. Since the latter part of 1942 they have been so packed as to yield a drained weight of 7½ ounces for the No. 1 picnic can, with drained weights for other cans in proportion. The increased fill made necessary by Conservation Order M-81 and by the standard of fill of container under the Food, Drug, and Cosmetic Act, caused some minor manufacturing difficulties and some changes in the character of the canned oysters. The food contained much less liquid; sometimes the oysters tended to stick together in the can; possibly they were slightly softer; there was more likelihood of the oysters being twisted and of being broken in packing. (R. 17, 30, 44, 94–97, 126, 131–133, 139, 204, 451–453, 457–458, 459, 461–463, 466–467, 480, 481, 485–486, 493–494, 513, 519, 546–547, 551–552, 556, 562; Ex. 3)

4. Pacific oysters were not canned in any significant quantity while the requirements of Conservation Order M-81 with respect to canned oysters were effective, but canning was resumed in 1946. Most of the canned Pacific oysters, on account of their large size, are not subject to the requirements of the Food and Drug Administration's standard of fill of container for canned oysters, and when canning was resumed they were generally packed to yield the cut-out weight in use prior to 1942. The cans so packed were not well filled with oysters. (R. 17, 63–64, 78–81, 125–126, 150, 161, 177, 178, 192, 204, 265, 390–391, 418, 431–432, 443, 621, 634–635; Ex. 3, 8)

5. Soon there appeared on sale in the same market areas, canned Pacific oysters in No. 1 picnic cans with cut-out weights of slightly over 5 ounces of oysters, and from the Atlantic and Gulf Coasts canned oysters in the same size cans with cut-out weights of 7½ ounces of oysters. The canned Pacific oysters were often labeled to show the total weight of oysters and liquid in the can but not the drained weight of oysters. The difference in the amounts of oysters present was known to wholesale dealers, but was not generally known to retail dealers or to the final purchasers. This is a condition likely to confuse and deceive consumers. (R. 17–21, 62, 64, 67, 93–94, 125–126, 133, 158, 444–446, 633, 634; Ex. 4, 5, 6, 7, 21)

6. There has been no commercial canning of Pacific oysters where cans were filled to capacity with oysters, and it is impossible on the basis of commercial experience to determine the maximum fill of such oysters which can be used without impairment of quality. Experimental packs sponsored by canners of Pacific oysters were said to show impairment of quality at any point over the fill in use prior to 1942. The factors of quality used in judging these packs and the relative weights assigned such factors were arbitrary and not reasonably related to trade or consumer concepts of quality. (R. 44, 193, 204, 214–219, 238–251, 252–253, 267, 271–278, 279–409, 526–529, 566–602, 603–606, 620, 625, 653–700; Ex. 14 (A) (B) (C) (D) 15 (A) (B) (C) 16 (A) (B) (C) (D) (E) 17, 18, 19, 20, 21)

7. Experimental packs of Pacific oysters made by the Food and Drug Administration showed that it is possible to can Pacific oysters so as to comply with the standard of fill of container now applicable to canned oysters of an average drained weight of less than ½ ounce, without substantial change in quality from that of the commercially canned Pacific oysters having a much lower drained weight. (R. 37–38, 67, 93, 107, 114–115, 120, 121, 125–126, 630, 631, 638, 639, 640, 642, 653–700; Ex. 9 (A) (B), (C) 10 (A) (B), (C) 11 (A) to (Q) inclusive; 12)

Conclusions. It would not promote honesty and fair dealing in the interest of consumers to so reduce the requirements of the present standard of fill of container for canned oysters as to return to the fill in use prior to 1942.

It would not promote honesty and fair dealing in the interest of consumers to make separate standards of fill of container for canned oysters of different sizes or for oysters of different species.

A reasonable standard of fill of container based on drained weight of oysters, and applicable to oysters of all sizes and species, which takes into consideration the difference between commercial canning and experimental canning, is a standard requiring that the drained weight of oysters be not less than 59 percent of the water capacity of the can.

It will promote honesty and fair dealing in the interest of consumers to amend the standard of fill of container for canned oysters (§ 36.6) by striking out paragraphs (a) and (b) of § 36.6 and by substituting therefor a new paragraph (a) as follows:

(a) The standard of fill of container for canned oysters is a fill such that the drained weight of oysters taken from each container is not less than 59 percent of the water capacity of the container.

Paragraphs (c) (d) and (e) of § 36.6 are hereby designated as paragraphs (b) (c) and (d) respectively.

Any interested person whose appearance was filed at the hearing may, within 20 days from the date of publication of this order in the FEDERAL REGISTER, file with the Hearing Clerk of the Federal Security Agency, Office of the General Counsel, Room 3255, Federal Security Building, 4th Street and Independence Avenue, SW Washington, D. C., written exceptions thereto. Exceptions shall point out with particularity the alleged errors in the order and shall contain specific references to the pages of the transcript of the testimony or to the exhibits on which each exception is based. Such exceptions may be accompanied with a memorandum or brief in support thereof. Exceptions and accompanying memoranda or briefs should be submitted in quintuplicate.

Dated: October 4, 1947.

[SEAL] OSCAR R. EWING,
Administrator

[F. R. Doc. 47-9128; Filed, Oct. 9, 1947; 8:48 a. m.]

NOTICES

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9827]

SHICHIRO HASHIMOTO

In re: Stock owned by and debt owing to Schihiro Hashimoto. F-39-4607-A-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Schichiro Hashimoto, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan),

2. That the property described as follows:

a. One hundred (100) shares of no par value common capital stock of American Ice Co., 535 Fifth Avenue, New York, New York, a corporation organized under the laws of the State of New Jersey, evidenced by certificate numbered 59453, registered in the name of and presently in the custody of E. F. Hutton & Company, 623 So. Spring Street, Los Angeles 14, California, together with all declared and unpaid dividends thereon,

b. One hundred (100) shares of no par value capital stock of Commercial Solvents, 17 East 42nd Street, New York 17, New York, a corporation organized under the laws of the State of Maryland, evidenced by certificate numbered A223588, registered in the name of and presently in the custody of E. F. Hutton & Company, 623 So. Spring Street, Los Angeles 14, California, together with all declared and unpaid dividends thereon.

c. One hundred (100) shares of common capital stock of U. S. Industrial Chemicals, Inc., 60 E. 42nd Street, New York 17, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificate numbered 8036, registered in the name of and presently in the custody of E. F. Hutton & Company, 623 So. Spring Street, Los Angeles 14, California, together with all declared and unpaid dividends thereon,

d. Twenty-five (25) shares of no par value Class C, New Capital stock of Warren Bros. Company, 38 Memorial Drive, Cambridge 42, Massachusetts, a corporation organized under the laws of the State of West Virginia, evidenced by certificate numbered NYC05940, registered in the name of and presently in the custody of E. F. Hutton & Company, 623 So. Spring Street, Los Angeles 14, California, together with all declared and unpaid dividends thereon, and

e. That certain debt or other obligation owing to Shichiro Hashimoto, by E. F. Hutton & Company, 623 So. Spring Street, Los Angeles 14, California, in the amount of $1,500.13 as of August 18, 1947, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 15, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9136; Filed, Oct. 9, 1947; 8:46 a. m.]

[Vesting Order 9293]

ALFREDA VEIT AND ROBERT KLOSE, JR.

In re: Stock owned by Alfreda Veit and Robert Klose, Jr. F-28-17541-A-1, F-28-17541-A-2, F-28-17541-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Alfreda Veit and Robert Klose, Jr., whose last known addresses are Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the property described as follows: Two and three-hundred twenty-five thousandths (2.325) shares of $1,000.00 par value capital stock of Columbia Brick Works, 1320 SE Water Avenue, Portland, Oregon, a corporation organized under the laws of the State of Oregon, evidenced by certificate number 21, dated April 29, 1935, registered in the name of Robert Klose (deceased), and presently in the custody of the United States National Bank, Portland, Oregon, together with all declared and unpaid dividends thereon, as evidenced by certain dividend checks in the custody of the aforesaid Columbia Brick Works, and together with said dividend checks,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Alfreda Veit and Robert Klose, Jr., the aforesaid nationals of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 24, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9140; Filed, Oct. 9, 1947; 8:46 a. m.]

[Vesting Order 9337]

KURT SCHMIEDER

In re: Cash and bank account owned by Kurt Schmieder.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kurt Schmieder, whose last known address is Meerane, Saxony, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows:

a. Cash in the amount of $167.12 presently in the possession of the Attorney General of the United States in Account No. 28-20676, and

b. That certain debt or other obligation of The New York Trust Company, 100 Broadway, New York, New York, arising out of an account entitled Kurt Schmieder, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on September 15, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 47-9137; Filed, Oct. 9, 1947; 8:46 a. m.]

[Vesting Order 9895]

AIMEE VON HOYNINGEN HUENE

In re: Trust for Aimee Von Hoyningen Huene under Agreement dated October 9, 1935. Files F-28-12543; E. T. sec. 7717. D-28-2124. E. T. sec. 3012.

Under the authority of the Trading with the Enemy Act as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Aimee Von Hoyningen Huene, Cecilia Elizabeth Dorothee Von Hoyningen Huene and Helma Sigrid Von Hoyningen Huene, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany)

2. That the issue, names unknown, of Aimee Von Hoyningen Huene who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated October 9, 1935, by and between William R. C. Corson and the Hartford National Bank and Trust Company, a corporation organized and existing under the laws of the State of Connecticut, and in and to all property held under said trust agreement by Hartford National Bank and Trust Company, as trustee, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

4. That to the extent that the persons identified in subparagraph 1 and the issue, names unknown, of Aimee Von Hoyningen Huene are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 1, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director Office of Alien Property.

[F. R. Doc. 47-9141; Filed, Oct. 9, 1947; 8:47 a. m.]

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

WESTERN SALES CO. STOCKYARDS
NORTH PLATTE, NEBR.

NOTICE RELATIVE TO POSTING STOCKYARDS

Notice is hereby given that after inquiry and after consideration of all relevant matter presented pursuant to the notice of proposed posting and rulemaking published in the FEDERAL REGISTER on May 3, 1947 (12 F. R. 3006) it has been ascertained by me, pursuant to section 302 of the Packers and Stockyards Act, 1921 (7 U. S. C. 202) that the stockyard known as Western Sales Company Stockyards, North Platte, Nebraska, is a stockyard within the definition of a stockyard contained in section 302 of said act and is, therefore, subject to the provision of said act.

The attention of the stockyard owner, market agencies, dealers, and other persons concerned is directed to sections 303 and 306 (7 U. S. C. 203 and 207) and other pertinent provisions of said act, and the rules and regulations issued thereunder by the Secretary of Agriculture.

NOTE: The Packers and Stockyards Act provides for a specified time after the posting of notice at the stockyard, for market agencies, dealers, and stockyard owners to register and qualify for the operation of their businesses under that act. There appears to be no good reason to defer the effective date of the foregoing notice in view of that fact. Therefore, it is determined that good cause exists to make this notice, and it shall be, effective immediately, subject to the provisions of the Packers and Stockyards Act.

Done at Washington, D. C., this 6th day of October 1947.

[SEAL] H. E. REED,
Director Livestock Branch, Production and Marketing Administration.

[F. R. Doc. 47-9121; Filed, Oct. 9, 1947; 8:46 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. 2931]

TRANS-TEXAS AIRWAYS

NOTICE OF HEARING

In the matter of the compensation for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith over Trans-Texas Airways' (formerly Aviation Enterprises, Inc.) route No. 82.

Notice is hereby given that further hearing in the above-entitled matter is assigned to be held on October 10, 1947, at 10:00 a. m. (e. s. t.) in Room 1508, Department of Commerce Building, 14th and E Streets NW., Washington, D. C., before Examiner Frank A. Law, Jr.

Dated at Washington, D. C., October 7, 1947.

By the Civil Aeronautics Boards.

[SEAL] M. C. MULLIGAN,
Secretary.

[F. R. Doc. 47-9135; Filed, Oct. 9, 1947; 8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 6913, 8160]

PRESQUE ISLE BROADCASTING CO. (WERC) AND WLEU BROADCASTING CORP.

ORDER CONTINUING HEARING

In re applications of Presque Isle Broadcasting Company (WERC), Erie, Pennsylvania, Docket No. 8160, File No. BS-1128; WLEU Broadcasting Corp. (WLEU), Erie, Pennsylvania, for construction permit, Docket No. 6913, File No. BP-4115.

The Commission having under consideration a petition filed September 29, 1947, by Presque Isle Broadcasting Company (WERC), Erie, Pennsylvania, requesting a 30-day continuance in the hearing presently scheduled for October 15, 1947, in the proceeding upon the show cause order and application for construction permit of the above-entitled applications;

It is ordered, This 3d day of October, 1947, that the instant petition for continuance be, and it is hereby, granted; and that the said hearing upon the above-entitled applications be, and it is hereby continued to 10:00 a. m., Monday, November 17, 1947, at Washington, D. C.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9143; Filed, Oct. 9, 1947; 8:47 a. m.]

[Docket Nos. 8291-8293]

KEYSTONE BROADCASTING CORP. ET AL.

ORDER CONTINUING HEARING

In re applications of Keystone Broadcasting Corporation, Harrisburg, Pennsylvania, Docket No. 8291, File No. BPH-183; York Broadcasting Company, York, Pennsylvania, Docket No. 8292, File No. BPH-184; Reading Broadcasting Company, Reading, Pennsylvania, Docket No. 8293, File No. BPH-522; for construction permits.

The Commission having under consideration a joint petition filed September 30, 1947, by Keystone Broadcasting Corporation, Harrisburg, Pennsylvania, York Broadcasting Company, York, Pennsylvania, and Reading Broadcasting Company, Reading, Pennsylvania, requesting a 30-day continuance of the hearing in the consolidated proceeding on their above-entitled applications for construction permits, scheduled to be held at Washington, D. C., on October 13, 1947;

It is ordered, This 3d day of October 1947, that the instant petition for continuance be, and it is hereby, granted; and that the said hearing on the above-entitled applications be, and it is hereby, continued to 10:00 a. m., Wednesday, November 19, 1947, at Washington, D. C.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 47-9142; Filed, Oct. 9, 1947; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-200, G-207]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

OPINION AND ORDER ESTABLISHING TEMPORARY EMERGENCY SERVICE RULES AND REGULATIONS

OCTOBER 6, 1947.

City of Detroit, Michigan, et al. v. Panhandle Eastern Pipe Line Company, et al., Docket No. G-200. In the matter of Panhandle Eastern Pipe Line Company, Michigan Gas Transmission Corporation, and Illinois Natural Gas Company, Docket No. G-207.

Notice is hereby given that, on October 3, 1947, the Federal Power Commission issued its Opinion No. 156 and order entered October 3, 1947, establishing temporary emergency service rules and regulations to be effective when curtailment of natural gas service by Panhandle Eastern Pipe Line Company is necessary.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9114; Filed, Oct. 9, 1947; 8:46 a. m.]

[Docket No. G-938]

NORTHERN NATURAL GAS CO.

ORDER FIXING DATE OF HEARING

OCTOBER 7, 1947.

Upon consideration of the application filed August 25, 1947, and the supplement thereto filed on September 22, 1947, by Northern Natural Gas Company (Applicant) a Delaware corporation having its office at Omaha, Nebraska, for a certificate of public convenience and necessity authorizing the construction, operation and acquisition of certain natural-gas transmission facilities, and for approval of abandonment and removal of a certain portion of Applicant's facilities, subject to the jurisdiction of the Commission, both pursuant to section 7 of the Natural Gas Act, as amended, all as fully described in such application and supplement, on file with the Commission and open to public inspection;

It appearing to the Commission that: This proceeding is a proper one for disposition under the provisions of Rule 32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure (as amended June 16, 1947) Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on September 12, 1947 (12 F. R. 6096-97)

The Commission, therefore, orders that:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (as amended June 16, 1947), a hearing be held on October 23, 1947, at 9:30 a. m. (e. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, N. W., Washington, D. C. concerning the matters involved and the issues presented by such application; *Provided, however,* That the Commission may, after a noncontested hearing, forthwith dispose of the proceeding pursuant to the provisions of Rule 32 (b) of the Commission's rules of practices and procedure (as amended June 16, 1947).

(B) Interested State commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: October 7, 1947.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9127; Filed, Oct. 9, 1947; 8:48 a. m.]

[Docket No. G-953]

NORTHERN NATURAL GAS CO.

NOTICE OF APPLICATION

OCTOBER 6, 1947.

Notice is hereby given that on September 26, 1947 an application was filed with the Federal Power Commission by Northern Natural Gas Company (Applicant) a Delaware corporation with its principal place of business at Omaha, Nebraska, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas pipe line facilities, subject to the jurisdiction of the Commission, which are described as follows:

Approximately 4.12 miles of 4½-inch O. D. solid welded steel loop branch line beginning at the 4-inch by 3-inch swedge in the Northeast quarter (N. E. ¼) of Section 13, Township 83 North, Range 30 West, near the Grand Junction take-off and extending in a westerly direction to the Jefferson, Iowa, town border station in the Southwest quarter (S. W. ¼) of Section 9, Township 83 North, Range 30 West, Greene County, Iowa.

The proposed service to be rendered by the Applicant is the delivery of natural gas to meet the increase of the estimated firm gas demands in the presently served communities of Grand Junction and Jefferson, Iowa, in the 1947-1948 heating season, together with increased demands for such gas in future years. Applicant states that the inadequacy of its branch line facilities serving the communities of Grand Junction and Jefferson, Iowa, and the necessity for completing the construction of the proposed facilities and starting their operation prior to the time of the 1947-1948 heating season are such as to make installation and operation of the proposed facilities extremely urgent. It is estimated that approximately 14 days will be required to complete construction and place the facilities in operation.

The estimated over-all capital cost of the construction of the proposed facilities is $24,100, which will be financed out of the general funds of the Applicant.

Any interested State commission is requested to notify the Federal Power Commission whether the application should be considered under the cooperative provisions of Rule 37 of the Commission's rules of practice and procedure (18 CFR 1.37), and, if so, to advise the Federal Power Commission as to the nature of its interest in the matter and whether it desires a conference, the creation of a board, or a joint or concurrent hearing, together with the reasons for such request.

The application of Northern Natural Gas Company is on file with the Commission and is open to public inspection. Any person desiring to be heard or to make any protest with reference to the application shall file with the Federal Power Commission, Washington 25, D. C., not later than 15 days from the date of publication of this notice in the FEDERAL REGISTER, a petition to intervene or protest. Such petition or protest shall conform to the requirements of Rule 8 or 10, whichever is applicable, of the rules of practice and procedure (as amended on June 16, 1947) (18 CFR 1.8 or 1.10)

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 47-9111; Filed, Oct. 9, 1947; 8:46 a. m.]

INTERSTATE COMMERCE COMMISSION

[S. O. 336, Special Permit 303]

RECONSIGNMENT OF CAR FGEX 50490 AT ALTOONA, PA.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 336 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 336 insofar as it applies to the reconsignment at Altoona, Pa., October 2, 1947, by J. E. Nelson & Son, of car FGEX 50490, now on the Pennsylvania Railroad to J. E. Nelson & Son, Pittsburgh, Pa. (PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 2d day of October 1947.

HOMER C. KING,
Director
Bureau of Service.

[F. R. Doc. 47-9120; Filed, Oct. 9, 1947; 8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 7-1006]

BUDD CO.

NOTICE OF APPLICATION FOR UNLISTED TRADING PRIVILEGES, AND OF OPPORTUNITY FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 6th day of October A. D. 1947.

In the matter of application by the Los Angeles Stock Exchange for unlisted trading privileges in The Budd Company, common stock, no par value; File No. 7-1006.

The Los Angeles Stock Exchange, pursuant to section 12 (f) (2) of the Securities Exchange Act of 1934 and Rule X-12F-1 thereunder, has made application for unlisted trading privileges in the common stock, no par value, of The Budd Company, a security listed and registered on the New York Stock Exchange and Philadelphia Stock Exchange.

Rule X-12F-1 provides that the applicant shall furnish a copy of the application to the issuer and to every exchange on which the security is listed or already admitted to unlisted trading privileges. The application is available for public inspection at the Commission's principal office in Philadelphia, Pennsylvania.

Notice is hereby given that, upon request of any interested person received prior to November 6, 1947, the Commission will set this matter down for hearing. In addition, any interested person may submit his views or any additional facts bearing on this application by means of a letter addressed to the Secretary of the Securities and Exchange Commission, Philadelphia, Pennsylvania. If no one requests a hearing on this matter, this application will be determined by order of the Commission on the basis of the facts stated in the application, and other information contained in the official file of the Commission pertaining to this matter.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9116; Filed, Oct. 9, 1947; 8:46 a. m.]

[File No. 70-1635]

INDIANA SERVICE CORP.

NOTICE OF FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Philadelphia, Pa., on the 3d day of October A. D. 1947.

Notice is hereby given that an application-declaration has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Indiana Service Corporation ("Indiana") a subsidiary of American Gas and Electric Company ("American Gas") a registered holding company. Applicant-declarant designated sections 6, 7 and 12 (c) of the act and Rule U-42 of the rules and regulations promulgated thereunder as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than October 15, 1947 at 5:30 p. m., e. s. t., request, the Commission in writing that a hearing be held on such matter, stating the reasons for such request, the nature of his interest and the issues of fact or law raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 18th and Locust Streets, Philadelphia 3, Pennsylvania. At any time after October 15, 1947, said application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in rule U-20 (a) and Rule U-100 thereof.

All interested persons are referred to said application-declaration which is on file in the offices of this Commission for a statement of the transactions therein proposed which are summarized as follows:

Indiana has entered into a credit agreement whereby it will borrow from the banks shown below in the respective amounts indicated $5,000,000 on or before January 2, 1948 and an additional $5,000,000 on or before February 2, 1948. The names of the banks and the amounts proposed to be borrowed from such banks are as follows:

Name of bank:	*Amount*
Irving Trust Co	$4,000,000
Guaranty Trust Co. of New York	4,000,000
Central Hanover Bank & Trust Co	2,000,000
Total	10,000,000

The proposed loans will be evidenced by promissory notes maturing December 31, 1950 and are to bear interest from their respective issue dates at the rate of 1¾% per annum. The agreement provides also that Indiana may repay the notes from time to time in whole, or ratably in part, on 10 days' notice to the banks. If prepayments are made from moneys borrowed at a lower rate of interest, Indiana will also pay to each bank an amount equal to ¼ of 1% of the amount being prepaid to it for each year or portion of a year from the date of prepayment to December 31, 1950.

It is stated that the proceeds from the proposed loans together with approximately $1,900,000 in cash from Indiana's general corporate funds will be used (a) to redeem and cancel Indiana's outstanding First and Refunding Mortgage 5% Gold Bonds, Series A, due 1950 in the aggregate principal amount of $6,656,500, which Indiana proposes to call for redemption on January 1, 1948, at the redemption price of 102½% of principal amount plus accrued interest to the date of redemption, and (b) to redeem and cancel Indiana's outstanding First Lien and Refunding Mortgage 5% Gold Bonds, Series A, due 1963, which Indiana proposes to call for redemption on February 1, 1948, in the aggregate principal amount of $4,925,900 at the redemption price of 103% of principal amount plus accrued interest thereon to the date of redemption. Indiana proposes to give notice of redemption of its 1950 bonds not later than November 1, 1947. In this connection the credit agreement provides that Indiana will pay to each of the banks within 5 days after it shall have given the first notice of redemption of its 1950 bonds a commitment fee of ⅛ of 1% of the aggregate amount which such banks are obligated to lend to Indiana.

The refinancing of the mortgage bonds through the medium of bank loans is stated to be a temporary expedient prior to the merger of Indiana into Indiana & Michigan Electric Company ("Indiana & Michigan") also a subsidiary of American Gas, as proposed in the application of American Gas for approval of the purchase of the common stock of Indiana (File Nos. 70-1178, 54-137 and 59-58) The application-declaration also states that while the ratio of notes payable to total capitalization is high, Indiana has been informed by American Gas that at such time as Indiana is merged with Indiana & Michigan, the resulting ratio of funded debt to total capitalization of the merged company will be improved.

The application-declaration proposes that the unamortized debt, discount and expense and the call premiums allocable to the bonds to be redeemed be amortized over the life of the promissory notes.

Indiana states that the proposed transactions have been submitted for approval to the Public Service Commission of the State of Indiana, the state in which Indiana is organized and is doing business.

It is requested that the Commission's order granting the application and permitting the declaration herein to become effective be issued prior to October 23, 1947 and that it shall be effective forthwith.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 47-9117; Filed, Oct. 9, 1947; 8:46 a. m.]